

PROTOCOL ON OFFICER/COUNCILLOR RELATIONS

1.0 INTRODUCTION

- 1.1 This document should be read in conjunction with the Constitution and all approved and adopted Human Resources policies.
- 1.2 The purpose of this protocol is to guide Members and officers of the Council in their relations with one another. It is this Council's way of applying best principles:
 - ◆ Members have a right to information on a "need to know basis" and support
 - ◆ Officers must serve the whole Council objectively and impartially
 - ◆ Political processes and different roles of Members are a legitimate part of local democracy.
- 1.3 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues that most commonly arise. It is hoped, however, that the approach that it adopts will serve as a guide to dealing with other issues.
- 1.4 This protocol is to a large extent no more than a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.
- 1.5 This protocol also seeks to reflect the principles underlying the respective Codes of Conduct, which apply to Members and officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and North Devon District Council in particular and they therefore demand very high standards of personal conduct.
- 1.6 This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Planning Code of Conduct, the Council's Constitution and any guidance issued by the Ethics Committee and/or Monitoring Officer.

2.0 OFFICERS AS EMPLOYEES

- 2.1 The Council as a Corporate Body employs officers.
- 2.2 Officers serve the Council as a whole and owe equal obligations to all Members of the Council.
- 2.3 Officers must act apolitically whether or not they hold politically restricted posts, and Members must not put officers in situations where their political neutrality may be compromised.

- 2.4 At the heart of this Protocol, is the importance of mutual respect. Member/officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and officers should observe reasonable standards of courtesy, and that neither party should seek to take unfair advantage of their position, or seek to exert undue influence on the other party. It should be remembered that inappropriate behaviour could be inferred from language and style, so Members and officers should always seek to address each other professionally and with courtesy in both formal and informal meetings.
- 2.5 A Member should not raise matters relating the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol. An officer has no means of responding to such criticisms in public. If a Member feels they have not been treated with proper respect and courtesy, or has concerns about the conduct or capability of an officer, and fails to resolve it through direct discussion with that officer, the Member should raise the matter with the respective Head of Service or Service Manager. If the matter relates to a Head of Service or Service Manager, the Member should raise the issue with Chief Executive. The appropriate line manager will then look into the facts and report back to the Member. If the Member continues to feel concern, then he/she should report the facts to the next appropriate level of line management or if, after doing so, is still dissatisfied, should raise the issue with the Chief Executive, who will look into the matter afresh.
- 2.6 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.
- 2.7 An officer should not raise with a Member matters relating to the conduct or capability of another officer or internal management in a manner that is incompatible with the overall objectives of this Protocol. This does not, however, prevent an officer raising a concern with a Member under the Council's Whistleblowing Policy and Procedure.
- 2.8 Where an officer feels that a Member has not properly treated him/her with respect and courtesy, he/she should raise the matter with his Head of Service/ Service Manager or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Manager will take appropriate action, either by approaching the individual Member and/or Party Group Leader. If the Group Leader does become involved the Chief Executive must be informed. If the matter cannot be resolved to the satisfaction of the employee concerned the matter will be treated as a grievance and dealt with under the Council's formal grievance procedure.
- 2.9 This procedure does not preclude the officer having the right to refer an allegation of misconduct of a Member to the Monitoring Officer or Governance Committee.
- 3.0 THE RELATIONSHIP: OFFICER SUPPORT TO MEMBERS – GENERAL POINTS**
- 3.1 Officers are responsible for day-to-day managerial and operational decisions within the Authority and will provide professional and impartial support to all Members.

- 3.2 Support from officers is needed for all the Authority's functions exercised through Council, one of the Committees or through individual Members representing their communities etc.
- 3.3 Day-to-day managerial and operational decisions are and should remain the responsibility of the Chief Executive and other officers.
- 3.4 A Member when attending external meetings or a planning site inspection may request to be accompanied by an officer. The Member must discuss the appropriateness of, and seek the approval for such attendance from the appropriate Head of Service or Service Manager.

4.0 OFFICER SUPPORT TO PARTY GROUPS

- 4.1 In discharging their duties and responsibilities, officers serve the Council as a whole and not any Party Group, combination of Groups or any individual Member of the Council.
- 4.2 There is statutory recognition for Party Groups and often such Groups give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Senior Officers may properly be called upon to support and contribute to such deliberations by Party Groups or to support individual Members, but must at all times, maintain political neutrality. All officers must, in their dealings with Party Groups and individual Members, treat them in a fair and even-handed manner.
- 4.3 The assistance provided by Senior Officers can take many forms ranging from a briefing meeting with a Chairman or other Members prior to a meeting, to a presentation to a full Party Group meeting. It is an important principle that such assistance is available to all Party Groups and individual Members.
- 4.4 Certain points must however be clearly understood by all those participating in this type of process, Members and officers alike. In particular:
 - a) officer support in these circumstances must not exceed beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be nor are present at meetings, or parts of meetings, when matters of party business are to be discussed;
 - b) group 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 it is essential that they are not interpreted or acted upon as such; and
 - c) similarly, where officers provide information and advice to a group meeting in relation to a matter of Council business, this cannot act as a substitute for

providing all necessary information and advice to the relevant Committee or Sub Committee when the matter in question is considered.

- 4.5 Special care needs to be exercised whenever officers are involved in providing information and advice to a group meeting that includes persons who are not Members of the Council. Such persons will not be bound by Codes of Local Government Conduct (in particular, provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a Members only meeting.
- 4.6 Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group.
- 4.7 Any particular cases of difficulty or uncertainty in this area of officer advice to groups should be raised with the Chief Executive or Monitoring Officer who will discuss them with the relevant group leader(s).

5.0 SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS

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

6.0 LEAD MEMBERS AND OFFICER SUPPORT

- 6.1 It is clearly important that there should be a close working relationship between Lead Members, where appointed, and the officers who support and/or interact with them. However, such relationships should never be allowed 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 party groups.
- 6.2 It must be recognised that an officer will be under a professional duty to submit a report which presents an unbiased and balanced view of proposals for consideration at meetings of the Council, and that although a Lead Member may be consulted as part of the process, the professional officer as author of the report will always be fully responsible for the contents.
- 6.3 It is likely that in practice many officers will be working with Lead Members for a significant amount of their time. Officers must ensure that their political neutrality is not compromised and Lead Members must respect the political neutrality of officers.

7 MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 7.1 Members will be advised at any early stage about significant matters in their wards or which materially affect their ward. Members are free to approach any Head of Service/ Service Manager to provide them with such information, explanation and

advice about that department's functions as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a department's activities, to a request for specific information on behalf of a constituent.

- 7.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 7.3 Members have a statutory right to inspect any Council document that contains material relating to any business that is to be transacted at Council, Committee or Sub Committee meeting. This right applies irrespective of whether the Member is a member of the Committee or Sub-Committee concerned and extends not only to reports, which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items that may appear on the Confidential Restricted Information part of agendas for meetings. Details of these are contained in the Access to Information rules in Part 4
- 7.4 The common law right of Members is broader and is based on the principle that any Member has a *prima facie* right to inspect Council documents so far as his/her access to the document is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the '*need to know*' principle.
- 7.5 The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/she has the necessary '*need to know*'. In this respect a Member has no right to '*a roving commission*' to examine Council documents. Mere curiosity is not sufficient. The crucial question is the determination of the '*need to know*'. This question must initially be determined by the particular Head of Service/ Service Manager whose department holds the document in question (with advice, if necessary, from the Monitoring Officer).
- 7.6 The Council's Access to Information rules in Part 4 of the Constitution also deals with Members rights to inspect documents or to have access to other information and should be read in conjunction with this Protocol.
- 7.7 In some circumstances (eg: 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 (eg: 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.
- 7.8 Whilst the term '*document*' is very broad and includes for example, any document produced with Council resources, it should be accepted that a Member of one group will not have a '*need to know*' and therefore a right to inspect, a document which forms part of the internal workings of another group.
- 7.9 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.

- 7.10 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council. An example would be the early drafts of Committee reports/briefing papers that are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. This point is emphasised in paragraph 5(f) of the Members Code of Conduct, which should be observed when dealing with such information.
- 7.11 Members need to comply with the GDPR (Data Protection) and other legislation in relation to information held or accessed by them. Training on this will be given but if a Member has any doubt about how to handle particular information, they should contact the Council's Data Protection Officer.

8 OFFICER/CHAIRMEN & OTHER RELATIONSHIPS

- 8.1 It is clearly important that there should be a close working relationship between officers and Chairmen of Committees. However, relationships with a particular party group or such persons should not be such as to create public suspicion that an officer favours that group/person above others. Such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with other Members and other party groups.
- 8.2 Whilst a Chairman will routinely be briefed as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised an officer will be under a duty to submit a report on a particular matter and that the author will always be responsible for the contents of any report submitted in his/her name. A Chairman may comment upon a report in terms of readability and clarity and the inclusion of options or alternatives considered and rejected.
- 8.3 Members involved in the scrutiny process should have regard to the position of officers as impartial advisors to those making decisions. Questions asked of officers in Policy Development Committee should, as far as possible, be open in nature and should not in any circumstances breach the requirements of mutual respect.
- 8.4 Close personal and social relationships between Members and Officers should be avoided.

9.0 CORRESPONDENCE

- 9.1 Correspondence between an individual Member and an officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member.
- 9.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate officer, rather than over the name of a Member. It may be appropriate in certain circumstances (eg: representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception

rather than the norm. Letters, which for example, create obligations or give instructions on behalf of the Council, should never be sent out over the name of a Member.

10 **PUBLICITY AND PRESS RELEASES**

- 10.1 Local Authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and Council Taxpayers. In recent years, all Local Authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, Local Authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is to be welcomed. Press releases should be agreed with the Council's Communications Team.

The Code of recommended practice on Local Authority Publicity should be observed at all times.

11 **INVOLVEMENT OF WARD COUNCILLORS**

11.1 **Public Meetings**

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected will as a matter of course be invited to attend the meeting.

11.2 **Consultations on Local Issues**

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.

11.3 **Ombudsman Complaints**

Whenever the Council receives a complaint via the Ombudsman, a copy of that complaint, together with the Council's response and, ultimately, the Ombudsman's decision, will be forwarded to the appropriate Ward Members.

12 **PUBLIC MEETINGS CALLED BY INDIVIDUAL COUNCILLORS OR POLITICAL GROUP**

- 12.1 If an individual Member or political group convenes a public meeting, publicity for the meeting must clearly state the basis on which it is being held and should not state or imply it is a Council meeting.
- 12.2 Any request for an officer to attend such a meeting must be made through the Head of Service or the appropriate Service Manager.

13 **CONCLUSION**

Mutual understanding, openness and basic respect are the greatest safeguard of the integrity of the Council, its Members and Officers, and should be demonstrated by strict compliance with this Protocol.