

## **Part Two – Councillors**

### **Section Four – Protocol on Councillor/Officer Relations**

#### **I. THE ROLES OF COUNCILLORS AND OFFICERS**

- I.01 Councillors and officers have different roles and accountabilities. Councillors are answerable to the electorate and serve until their term of office expires. Officers are employed by, and are responsible to, the Council as a whole. They are not responsible to any one political party or any individual Councillor or co-opted member. Officers are subject to the Council's employment procedures and management disciplines. Their job is to advise Councillors and the Council, and to carry out the Council's work under the direction of Council decision-making bodies, the overall management of the Chief Executive and the specific management direction of their relevant Executive Director or Director.
- I.02 The Councillors are responsible for:
- (a) providing a focus for community leadership in local wards and acting as advocates on behalf of constituents;
  - (b) giving the authority political leadership and deciding on overall Council policy;
  - (c) making decisions within overall Council policy;
  - (d) the scrutiny of Council policy and services; and
  - (e) representing the area and the Council externally.
- I.03 Council officers are responsible for:
- (a) providing professional advice and relevant information (objectively and impartially) to elected members when they are formulating policy and taking decisions or scrutinising the decisions and actions of others;
  - (b) implementing decisions made by Councillors/committees; and
  - (c) taking managerial and operational decisions in accordance with the Council's schemes of delegation.
- I.04 Councillors can expect from officers: a commitment to the Council as a whole and not to any single part of it nor to any political group; respect, courtesy and the highest standards of professional and personal integrity; timely and informative responses to enquiries and complaints; and appropriate confidentiality and discretion. Officers can expect from Councillors: respect, courtesy and the highest standards of ethics and integrity; effective leadership; and not to abuse their authority.

- I.05 Officers have a duty to present impartial information and to keep Councillors of all political groups fully informed about developments of significance in relation to Council activities. Care must be taken by both officers and Councillors to ensure that officers' political impartiality is not compromised. Members of the Leadership Team must take special care to avoid and to be seen to avoid placing pressure on officers to act other than in an impartial way. This is particularly important given their additional responsibilities and decision-making powers.
- I.06 Appointments at executive director, director and chief officer level are made by a councillor-level selection committee or panel. All other appointments are made at officer level.
- I.07 Staffing matters (including discipline, training, setting and monitoring targets) are dealt with by the relevant managers, although the relevant Lead Members will agree to targets and performance-related pay in the case of the Executive Directors.
- I.08 As indicated in the Scheme of Delegation to Officers (at Part 7 of this Constitution), the Director/Head of Communications, Executive Directors and Directors may provide the press with factual information but comment will only be provided by the officers with the prior consent of the relevant Lead Member or the relevant committee chair, subject to the powers delegated to the Director/Head of Communications.
- I.09 The political parties represented on the Council hold regular group meetings. Officers do not usually advise these meetings, but may be invited to give information. All invitations should be cleared by the Chief Executive.
- I.10 The Chief Executive and other Executive Directors attend informal meetings with the Leadership Team. At such meetings preliminary consideration may be given to forthcoming policy issues but no Key Decisions will – or can by law - be taken.
- I.11 Officer advice and analysis will be made available to minority parties – for example, in relation to their preparation of an alternative budget prior to the annual meeting of the Council that sets the annual budget and Council tax.
- I.12 Officers will give advice and information to any Councillor or group of Councillors whether from the Leadership Team or Scrutiny.
- I.13 Executive Directors meet regularly in order to ensure that:
  - (a) there is a coherent approach to the formulation of policy advice to Councillors;
  - (b) the agreed priorities, policies and projects of the Council are delivered;
  - (c) the strategic direction of the Council's management is coordinated;
  - (d) internal controls on service implementation are effective;
  - (e) management arrangements are cost-effective and efficient; and
  - (f) external reporting requirements are honoured.

## **2. THE DECISION-MAKING PROCESS**

- 2.01 Decisions such as the setting of the Council tax can only be made by full Council; other formal bodies within the Constitution, including single Lead Members or Chief Officers acting under delegated authority (who may in turn authorise other officers as appropriate). Decisions by party political groups are not Council decisions and should not be presented as such to the public and press. Representations to a political group by interested parties on any matter for Council decision are not representations made to the Council.
- 2.02 In the event of challenge, attention may focus on whether the decision-making body, or individual, was authorised to make that decision. On the Council side, the Constitution therefore indicates:
- which decisions are reserved to the full Council;
  - which decisions may be made by each of the committees answerable to the Council; and
  - which decisions may be made by the officers under powers delegated to them by those committees.

On the Executive side, the Leader determines:

- which decisions shall be reserved to the full Leadership Team;
- which decisions may be made individually by Lead Members (who may if they wish refer any such decisions to the full Leadership Team); and
- which executive decisions may be made by the officers under powers delegated to them.

## **3. SCRUTINY**

- 3.01 Scrutiny committees have the power to require Lead Members and officers to appear before them and answer questions. So far as Lead Members are concerned, scrutiny committees should, wherever possible, require attendance only at meetings that appear in the Council diary. Officers and Lead Members are required to 'give an account' to relevant scrutiny committees of their decisions, advice and actions. Scrutiny committees should normally only require officers above a certain grade to attend to ensure that more junior officers are not put under undue pressure. Accordingly, the Council's scrutiny committees will in normal circumstances only be able to require the attendance of executive directors and directors. However, to facilitate proper conduct of business, executive directors and/or directors may arrange, as necessary, for other staff to attend meetings to assist.
- 3.02 The Council has determined that there should be no formal separation of officer support between the executive and scrutiny functions. The Chief Executive has overall responsibility for ensuring that staffing support is adequate overall. To assist this, the Chief Executive and the Director of Governance and Coordination will be responsible for ensuring that proper officer support is provided for scrutiny.

#### **4. REPORTS TO THE LEADERSHIP TEAM, COMMITTEES AND OTHER COUNCIL BODIES**

- 4.01 Reports to the Leadership Team are usually prepared by officers (operating under the management of the relevant Executive Director). Each report will contain their advice and, if they are for executive decision making, they will be signed off by the relevant Leadership Team Member prior to consideration at the formal meeting.
- 4.02 Reports to other Council bodies, bar some scrutiny committee reports, are prepared by officers and contain advice to Councillors. If Councillors decide not to follow that advice, the correct course is for them to do so in a formal meeting and for the meeting to decide upon an alternative course of action. Officers must give full and impartial advice and should not exclude options if these are valid alternatives on the assumption that they may be unacceptable to one political group.
- 4.03 Group leaders, Leadership Team Members and chairs of committees (including scrutiny bodies) may receive draft versions of reports to give preliminary consideration to the issues. There is nothing improper in reports being subsequently amended by an officer if preliminary consideration discloses that key issues have not been adequately explained or that relevant options have not been properly addressed.
- 4.04 Councillors cannot instruct an officer not to present a report if the officer considers it proper to do so. If the report is not regarded as appropriate by the relevant Councillor body, the remedy is for that body to not agree its recommendations.
- 4.05 Reports of scrutiny panels are usually drafted by officers depending on the arrangements in place but they remain the reports of the relevant panel. In this instance it is acceptable for members of the panel to ask for draft reports to be amended.

#### **5. BRIEFINGS**

- 5.01 Lead Members may meet informally and in private with officers to receive briefings and to ensure that the work necessary for making key decisions is progressing and will be completed on time. They may also consider the implications and consequences of such decisions, make plans to obtain the views of service users, residents and communities, and assess the legal, financial and equity considerations involved in the decision.
- 5.02 When this work is complete, meetings of the Leadership Team that make key decisions must be conducted in public (subject to the rules allowing resolution to exclude the public for any particular item on the grounds set out in the Local Government Act 1972).

#### **6. WORKING RELATIONSHIPS**

- 6.01 There must be mutual respect between Councillors and officers. Officers cannot respond to public comment from Councillors. This means that Councillors must take care about public comment about individual officers and not seek to undermine their position by personal criticism, rudeness, abuse or ridicule. This does not prevent Councillors from criticising the reports, actions and work of a department or section of the Council, where they believe such criticism is merited or from expressing concern about the manner in which a Council department has acted, or dealt with a constituent,

or a service has performed generally. But the manner of such criticism should have regard to this guidance. When officers are called to give evidence to or appear before scrutiny committees, Councillors must treat those officers courteously.

- 6.02 Regular contact between Councillors and officers is necessary to ensure the efficient working of the Council. Councillors and officers should have regard to and respect for their different roles in such contacts. The level at which contact occurs will vary depending upon the nature of the service and the reason for the contact. In general, contact will be at senior officer level but Councillors may, for example, need direct contact with relatively junior staff when dealing with constituency casework. Councillors should always bring concerns about issues affecting a department directly to the attention of the relevant Executive Director or Director and not to more junior staff.
- 6.03 Approaches by Councillors to junior officers are proper when casework is detailed and ongoing or matters are routine, but Councillors should keep the relevant Executive Director or Director informed by copying them into correspondence, e-mails, etc., and routing general enquiries through them. Councillors should not seek views on policy issues or non-routine business from more junior members of staff. Councillors must not give instructions to junior staff as this may undermine the formal accountability of staff to their line manager and compromise the political impartiality of the officer concerned. Junior staff are advised to respond promptly and courteously to Councillors' requests for information or routine enquiries, but to refer any concerns or wider policy matters to an Executive Director or Director.
- 6.04 If a Councillor has a complaint about a junior officer, it should be raised with the appropriate Executive Director or Director. If the complaint concerns a Director or Executive Director, it should be raised with the relevant Executive Director or Chief Executive as Head of the Paid Service. A complaint about the Chief Executive should be raised with the Leader, who will consider how it should be dealt with.
- 6.05 Councillors will also have contact with junior officers when visiting Council offices. Relevant Chief Officers should be advised in advance of Councillor visits to front-line services, unless the visits are of a statutory inspection nature in which case other procedures may apply. Special circumstances may also warrant unannounced visits.
- 6.06 Councillors need to take particular care if their paid employment brings them into contact with officers of the Council. Councillors must not abuse their position as an elected representative to obtain information they require in their professional capacity which would not otherwise be available to them. The Councillors' Code of Conduct provides that they must not use their position as a member improperly to confer on or secure for themselves or any other person an advantage or disadvantage. It may be difficult for officers to distinguish between the professional role of the Councillor concerned and their role as an elected representative. Such situations should be avoided wherever possible.
- 6.07 Officers must not seek to avoid staff consultative, dispute processes or other procedures by lobbying Councillors on matters which directly concern them as employees. If Councillors believe they have been approached by a member of staff in this way they should let the Monitoring Officer know immediately.

- 6.08 If an officer believes that a Councillor may be in breach of the Councillors' Code of Conduct, they should inform their manager as soon as possible. That manager will then decide whether to seek advice from the Monitoring Officer.

## **7. CLOSE PERSONAL RELATIONSHIPS**

- 7.01 Both Councillors and officers should take care not to give the impression that their distinct roles have become blurred in some way. Maintaining confidence in the separation of these roles necessarily imposes limitations on behaviour. Close personal relationships between Councillors and officers can confuse their separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception in others that a particular Councillor or officer may secure advantageous treatment.

## **8 ACCESS TO CONFIDENTIAL INFORMATION**

- 8.01 Where confidential information is provided, it must not be divulged until it has been made public. As provided for in the Councillors' Code of Conduct, Councillors' conduct will in particular address the statutory principles of the code of conduct by, amongst other requirements, ". . . . respecting the confidentiality of information . . . by not disclosing confidential information to third parties unless required by law or where there is a clear and overriding public interest in doing so."

## **9. THE PRE-ELECTION PERIOD**

- 9.01 Councillors and officers should be guided on protocol during the pre-election period before an election by specific advice issued by the Monitoring Officer, on the announcement of any election, by-election or other relevant vote such as a referendum.