Part Five, Section B

Protocol on Member/Officer Relations

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1. Introduction

1.1 The relationship between elected members and officers is fundamental to the successful working of the Council. This relationship is based on honesty, mutual respect and trust, and this protocol is intended to support that relationship by giving guidance on roles and relationships to build a common understanding and set of expectations. The protocol also sets out what should happen on the rare occasions when things go wrong. All Members and officers should abide by this protocol. Political group leaders in respect of members, and the Chief Executive and Monitoring Officer in respect of officers, are responsible for ensuring the protocol is upheld.

1.2 This protocol should be read and understood alongside relevant legislation and the respective Codes of Conduct.[1] If any questions arise from this protocol, advice should be sought from the Chief Executive or Monitoring Officer.

1.3 The Council operates a zero-tolerance policy to bullying and harassment.

2. Role of Members and Officers

2.1 The respective roles of members and officers can be summarised as follows:

Both members and officers are servants of the public and are indispensable to one another, but their responsibilities are distinct from one another. Members are democratically elected, operate politically, are accountable directly to the public and serve as long as their term of office lasts. Officers are politically impartial and are responsible to the Council as their employer. Their role is to give advice to members and the authority and carry out the work of the authority under the direction and control of the full Council, Cabinet and their committees. Officers are accountable to the Chief Executive as Head of Paid Service.

Members

2.2 Members have four main areas of responsibility:

a) Determining the Council's policies and giving political leadership
b) Monitoring and reviewing the performance of the authority in implementing policy and delivering services
c) Representing the authority externally
d) Acting as advocates on behalf of their constituents.

2.3 It is not the responsibility of members to involve themselves in the day-to-day management of the Council or its services. They should not seek to give instructions outside their areas of responsibility or terms of reference of their respective Committee.

[1] This would include the Members' Code of Conduct, the Employee Code of Conduct, Social media policy etc.

2.4 All members, including members of the Opposition or of Scrutiny Committees or Panels, have the same rights and obligations as individual members in their relationships with officers and should be treated equally. Officers support the administration in developing policy proposals whilst maintaining impartiality and ensuring that opposition members receive appropriate information and support to fulfil their scrutiny and representative roles.

Members of the Cabinet, Chairs and Vice Chairs

2.5 Members of the Cabinet, Chairs and Vice Chairs have additional responsibilities, entailing different relationships and more regular contact with officers. They still must respect the impartiality of officers, and must not ask them to undertake work of a party-political nature or that could prejudice their impartiality.

Officers

2.6 The role of officers is to give advice and information to members and to implement the policies determined by the Council, the Cabinet and their committees.

2.7 At senior level that role will include:

(a) Ensuring that the Council acts lawfully and in accordance with it's Constitution and Statutory obligations

(b) Developing and drafting policy proposals which accord with the overall framework set by Members,

(c) Providing professional and impartial advice in the course of policy development,

(d) managing the organisation,

(e) being accountable to Members for the achievement and strategic goals they set.

(f) Attending Cabinet, Committee and Scrutiny Panel meetings

Below Head of Service level, the role will include:

(g) working to establish systems and protocols designed to deliver services fairly and equitably,

(h) working under the direction of their managers, and not to individual Members of the Council – whatever office a Member might hold,

(i) responding to Members' questions on service practice

(j) being accountable to their manager and ultimately their Corporate Director

(k) Attending Committee, with the approval and support of a senior manager, and where there is senior office presence at the meeting to provide technical, operational or professional within their area of expertise.

2.8 Certain officers will also have responsibilities in law over and above their obligations to the authority and members. These are known as statutory officers and include the Chief Executive/Head of Paid Service, Monitoring Officer and Chief Finance Officer (s151 officer). Members must respect these responsibilities and not obstruct or victimise officers in the discharge of them.

Communications

2.9 The Council's Communications team are able to support the Cabinet and Chairs of Committees – including Scrutiny Panels – when they act as spokespeople for the Council. There are specific statutory restrictions on the use of public resources for the Council's communications, which are followed by officers and must be respected by members.

Children's Services

2.10 It is recognised that the Director of Children's Services has a close working relationship with the statutory Lead Member for Children's Services (the Cabinet Member for Children and Families) and will regularly report to them in relation to the DCS role. The Director of Children's Services and the Cabinet Member for Children and Families must work together to provide a clear and unambiguous line of local accountability.

Arms-Length Organisations

2.12 When the Council establishes arms-length organisations to exercise its function the employees of the organisation should be considered as officers for the purposes of this protocol.

3. Expectations

3.1 Members and officers can expect the following from each other:

(a) A working partnership;
(b) An understanding of and support for respective roles, workloads and pressures;
(c) Respect, dignity and courtesy;
(d) Integrity, mutual support and appropriate confidentiality;

(e) Respecting the appropriate boundaries between operational, policy making and performance roles.

3.2 Members can expect from officers:

(a) A commitment to the authority as a whole, and not to any political group;
(b) Timely response to enquiries and complaints in accordance with agreed procedures;
(c) Professional, accurate, honest and impartial advice, not influenced by political views or preference;
(d) Regular, up-to-date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
(e) Awareness of and sensitivity to the political environment;
(f) Training and development [from officers] in order to carry out their roles effectively;
(g) Not to have personal issues raised with them by officers outside of the Council's agreed policies and procedures;
(h) That officers will at all times comply with the relevant Code of Conduct;
(i) Support for the role of members as the local representatives of the authority.

3.3 Officers can expect from members:

(a) Political leadership and strategic direction;
(b) Not to be subject to bullying, intimidation, discrimination or harassment. Members should have regard to the seniority and experience of officers in determining what are reasonable requests, having regard to the powerful relationship between members and officers, and the potential vulnerability of officers, particularly at junior levels(below Head of Service Level);
(c) That members will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
(d) That members will not publicly name officers or make detrimental remarks about officers during public meetings. Where members are chairing or otherwise in a position of authority on committees they will do their best to ensure that meetings are conducted in such a way that officers are not subjected to bullying or harassment by members of the public attending meetings;
(e) That members will not involve officers into political or group discussions;
(f) That members will at all times comply with the Members Code of Conduct and this Protocol.

Limitations upon behaviour

3.4 The distinct roles of members and officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

(a) Close personal relationships between members and officers can confuse these separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception by others that a particular member or officer may secure advantageous treatment. They should therefore be avoided;

(b) The need to maintain the separation of roles means that there are limits to the matters on which they may seek the advice of officers, both in relation to personal matters and party political issues;
(c) Relationships with particular individuals or party groups should not be such as to create public suspicion that an employee favours that member or group above others.

3.5 Officer involvement in political activities

In accordance with the The Local Government Officers (Political Restrictions) Regulations 1990 Officers operating in politically restricted roles in the Council cannot "speak or publish written work for the public at large or to a section of the public with the apparent intention of affecting public support for a political party". For example, they may not hold certain party-political offices, act as an agent, or canvass at any election, nor speak or write publicly on matters of party-political debate. If there are any queries officers should contact the Monitoring Officer for advice.

4. Provision of information

4.1 Members should be provided with adequate information about services or functions upon which they may be called upon to make or scrutinise decisions, or which affect their constituents. In the normal course of events, this information will be made routinely available by officers in the form of reports, departmental plans, updates etc. Members are encouraged to make use of existing sources of information wherever possible.

Members of the Cabinet, Chairs and Vice Chairs

4.2 Members of the Cabinet, Chairs and Vice Chairs have additional responsibilities, entailing different relationships and more regular contact with officers.

4.3 In order for them to discharge their responsibilities as Cabinet members, administration portfolio holders will be briefed by Directors[2] on service issues, proposals and policy development. Directors may from time to time nominate other officers to attend these meetings. Directors may also brief committee Chairs on matters relevant to the terms of reference of the committee. These informal meetings may be on a one off or regular basis, in accordance with the requirements of the member concerned.

Ward Councillors

4.4 Officers should keep members appraised of developments that are relevant to their role as a ward councillor. Ward councillors should be kept up to date with

[2] The term 'Director' has the meaning as set out at Part 3 Section E Section 1 of this Constitution and shall include the following officers: the Chief Executive, Corporate Directors , and all Directors and Assistant Directors and the Chief Executive of Alexandra Palace & Park (as appropriate)

all major policy developments, public consultations and proposed changes to service delivery affecting their ward.

Members' Enquiries

4.5 Any member may ask the relevant Director to provide him or her with such factual information, explanation and advice about the Department's functions as he or she may reasonably need in order to assist him/her in discharging his or her role as a member of the Council or acting for and on behalf of the Council as an appointed representative to another body. These requests will be met where the member has a legal right to the information. If that right arises under the Freedom of Information Act, the Member shall not be required to make a formal FOI request.

4.6 All such information should be provided in accordance with the Member Enquiry Process. Where there are established alternative procedures, the enquiry will be put through those procedures and not dealt with as a Member Enquiry.

4.7 Where a member requests a service on behalf of a constituent that will be dealt with as a 'service request' by the appropriate service team.

4.8 Any requests for information made by political group assistants on behalf of members of their group should be treated in exactly the same way as if those members had made the request themselves. The political group assistants, when making such requests should clearly indicate on which member's behalf they are acting. This request should still be assessed under the Freedom of Information Act 2000 criteria or demonstrate a "Need to Know" if exempt information is being requested.

Briefings to political groups

4.9 the Leader of the Council or the Leader of any other political group may request the Chief Executive or relevant Director to prepare a briefing or written report on any matter relating to the authority for consideration by the group. Such requests must be reasonable and should not seek confidential or personal information. In considering such a request, officers should be mindful of the need to support members by providing factual information. However if an officer deems the nature of the request to be unreasonable the request will be referred to the Chief Executive for determination, were necessary in consultation with the Leader(s) of the political group(s).

4.10 Officer reports to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Reports will not deal with any political implications of the matter or any option and officers will not make any recommendation to a political group.

4.11 Any briefing offered to or requested by a party group will be offered to any other party groups. Where possible such briefings should be to all or a combination of party groups.

Officer attendance at political group meetings

4.12 The Leader of the Council or the Leader of any other political group may request the Chief Executive or relevant Director to attend a meeting of the group to advise on any matter relating to the authority.

4.13 Attendance at a meeting of a political group should be on the basis of equality of access, and members and officers should avoid officers being exposed to political discussions when delivering a briefing. Officers may decline to attend or provide a representative where they are of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.

4.14 Any briefing offered to or requested by a party group will be offered to any other party groups. Where possible such briefings should be to all or a combination of party groups. No officer of the Council shall attend any political group meeting which includes non-Council members.

4.15 Officers' advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Advice will not deal with any political implications of the matter or any option and officers will not make any recommendation to a political group.

4.16 Officers will respect the confidentiality of any matter which they are privy to in the course of attending a political group meeting.

Members' Access to Reports and background papers

4.17 Access to Cabinet, Committee or Sub-Committee papers and other documents or information is governed by:-

(i) Local Government Acts 1972-2000 (particularly Schedule 12A)
(ii) Relevant case law
(iii) Access to Information Procedure Rules (Part 4 Section D of the Constitution)
(iv) Freedom of Information legislation

4.18 The rights of members can be summarised as follows:

(i) Councillors generally enjoy the same access rights as members of the public in respect of public papers;
(ii) Members of the appropriate Cabinet, Committee or Sub-Committees will have a good reason for access to all exempt information on the Cabinet, Committee, Sub-Committee agenda under the common law "Need to Know" principles;
(iii) Members of the Overview and Scrutiny Committee will have a prima facie "Need to Know" where they require access to exempt Cabinet agenda items

as part of their scrutiny function provided the subject matter relates to an action or decision that the member is reviewing or scrutinising as part of the agreed scrutiny work programme;

(iv) All other Members who require access to confidential/exempt Cabinet/Committee/Sub-Committee documentation will need to request disclosure under the Freedom of Information Act 2000 or demonstrate a "Need to Know".

4.19 It is important to note that these rights only apply where members are clearly carrying out their role as elected representatives. Where any member has a disclosable pecuniary interest or a personal and prejudicial interest in a matter the member will only be entitled to the same access as would be the case for a private individual, i.e. to inspect the reports, minutes and background papers relating to the public part of the Cabinet/Committee/Sub-Committee Agenda. In these circumstances, the member must make it clear that s/he is acting in his/her private capacity and not as a member of the Council.

4.20 More information can be found in the Access to Information Procedure Rules at Part 4 Section D of this Constitution.

Confidential/Exempt Information

4.21 Whilst members of the Council have the same rights as the public in seeking and obtaining public documents or information under Freedom of Information legislation, this is not the case in relation to exempt and confidential information.

4.22 Confidential information is information which is classified as this in the cover page of the report :

(i) furnished to the Council by a Government Department on terms which forbid the disclosure of the information to the public, or

(ii) which may not be disclosed by or under any enactment or by a Court Order.

4.23 Exempt information is information to which the public may be excluded subject to certain qualifications. The categories of exempt information are set out in Schedule 12A to the Local Government Act 1972 and are reproduced in section 10 of the Access to Information Procedure Rules at Part 4 Section D of this Constitution. There may be some occasions when information may fall within one or more of the categories, but it is nevertheless in the public interest to disclose it under Freedom of Information legislation, without infringing personal rights or damaging the Council's position. If there is doubt in relation to individual items then they should be kept confidential until the Cabinet/Committee/Sub-Committee has taken a view as to whether they should be treated as exempt or not.

More information can be found in the Access to Information Procedure Rules at Part 4 Section D of this Constitution.

Use of Council Information – Confidentiality

4.24 Procedure Rules and specific local procedures (e.g. on contracts) require members and officers to maintain confidentiality in certain circumstances. Officers are bound by their contracts of employment and any breach of confidentiality will almost certainly lead to disciplinary action. Officers must distinguish between assisting an elected representative in the course of the member's Council business and dealing with the same person as a client or customer, e.g. a Housing Benefit claimant. In the latter case, officers will treat the member with the same degree of helpfulness, courtesy and confidentiality as would be afforded to any other member of the public in the same situation, and interpret the relevant rules and procedures as they would for any other client or customer.

4.25 Equally, any Council information provided to a member on the basis of a 'Need to Know' 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 an elected representative of the Council. Confidential or exempt information provided to members may be discussed in the private session of Committee meetings or in private meetings of appropriate members and officers. However, it should not be discussed with, or released to, any other persons. Any information that is provided should be clearly marked as confidential before it is released to members**.**

4.26 Members abusing this trust may find themselves the subject of a complaint to the Standards Committee that they have contravened paragraph 3.3 of the Members' Code of Conduct which states that except in certain specified circumstances a member must not disclose information given to him/her in confidence by anyone, or information acquired by the member which he/she believes, or ought reasonably to be aware, is of a confidential nature.

4.27 Information disclosed privately or private discussions held during exempt Committee sessions, informal briefings or group meetings should not be disclosed by members or officers to any person not already privy to that information.

Use of Council Data

4.28 When a Member accesses information as part of their role for the Council, e.g. Cabinet or Committee member, the Data Controller is the Council.

- Noting that when a Member holds personal information (usually about constituents) in their role as ward Member, the Member themselves is the Data Controller, and the Council should support them in carrying out this role with annual training and guidance.
- Noting that the Member is responsible for compliance with the data protection principles and should be supported by officers in meeting this responsibility officers with annual training and guidance.

5. Good Practices for Working in a Political Environment

5.1 Keeping in mind that Members and Officers share a collective responsibility to ensure that political differences do not compromise the Council's ability to make lawful, transparent and effective decisions in the interests of residents. Officers will remain politically impartial and Members will respect and protect that impartiality at all times.

- Officers shall provide professional support to all Members in accordance with their constitutional roles.
- No Member shall receive preferential treatment because they belong to a particular political group.
- Members holding leadership, cabinet, committee chair or spokesperson roles may necessarily have greater engagement with officers due to their responsibilities; however, this shall not prejudice officers' duties to other Members.
- Opposition Members shall receive reasonable support and information necessary to fulfil their scrutiny, representational and governance responsibilities.

5.2 Officers shall:

- Support agreed constitutional decision-making arrangements.
- Provide objective professional advice to facilitate informed decisions.
- Avoid becoming involved in any political negotiations between groups.
- Ensure that their actions cannot reasonably be interpreted as advancing the interests of one political group over another.

5.3 Members shall:

- Respect the professional independence of officers.
- Not seek to involve officers in coalition negotiations or political strategy discussions.
- Not represent officer views as supporting any particular political position unless explicitly authorised to do so.

Sensitive Information

5.4 Officers shall ensure that information is shared in accordance with legal requirements, the Constitution, data protection legislation and the principles of good governance.

Committee and Scrutiny Arrangements

5.5 Where committee chairs, vice-chairs or scrutiny leads are drawn from different political groups:

- Officers shall provide consistent, objective and timely advice to all committee chairs and vice-chairs.
- Officers shall support the effective operation of overview and scrutiny irrespective of political control or influence.
- Members shall respect the role of officers in providing professional advice.

6. When Things Go Wrong

6.1 Rarely, the relationship between members and officers will fall short of expectations. In such instances, it would always be preferable to deal with matters at an early stage. According to the circumstances this could be: through informal discussions between the parties concerned, referral to the relevant Corporate Director or referral to the Monitoring Officer or referral to the Chief Executive where the matter concerns senior governance or officer impartiality. This could also be a matter for referral to the political group leadership or whips. This may not always be possible, in which case the following procedures should be followed.

Procedure for officers

6.2 If conciliation via a senior manager is not possible, officers can have recourse to the Chief Executive, as appropriate to the circumstances. Officers also have recourse to the Council's Whistleblowing Procedure or can refer the matter under the arrangements for complaints under the Members' Code of Conduct, set out at Part 5 Section A of the Constitution.

Procedure for Members

6.3 In the event that a member is dissatisfied with the conduct, behaviour or performance of an officer, the matter should be raised with the appropriate Director. Where the officer concerned is a Director the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive the matter should be raised with the Monitoring Officer. If a Member is unsure how to proceed or would wish to discuss the conduct of another Member toward officers, they should discuss this with their group whip.