

PROTOCOL FOR MEMBER/EMPLOYEE RELATIONS

1. Every appointment of paid Local Authority employment must be on merit. The only exception to this is in respect of Political Assistants appointed under Section 9 of the Local Government and Housing Act 1989. The obligation to appoint Officers on merit includes consideration of the terms of appointment, any promotion in employment, and should be applied to any disciplinary action.
2. Senior Officers cannot be Local Authority Councillors or Members of Parliament, nor can they “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”. Such Officers are nevertheless able to engage in such activity to “such extent as is necessary for the proper performance of their duties” – Section 1-3 Local Government and Housing Act 1989 and Local Government Officers (Political Restrictions) Regulations 1990.
3. The Chief Executive, Chief Officers and other staff (except political assistants) are the employees of the Council as a whole and their overriding responsibility is to the Council and not to any party political group. The Chief Executive is nevertheless expected to work closely with the administration for the time being, and to give them information, assistance and advice. Subject to maintaining his position as politically neutral, he/she may develop a special relationship with the administration leadership and will not, without consent, disclose to the minority parties any matters discussed with that leadership.
4. Officers must be politically neutral: they are employed by the Council, not by Committees or other individual Councillors. The political neutrality of Officers should be respected. They should not be asked to play any role or undertake any task that is likely to prejudice that neutrality.
5. Councillors may require an Officer to provide advice or a briefing note on any issue to enable them to perform their Councillor duties, either as Members of the Authority and/or ward representatives. A key indicator as to whether such support breaches this Councillor/Officer Code is where the Officer concerned would have difficulty being open about the work in question to senior management.
6. All Members of the Council have a right of access to the Chief Executive. Where a Member requires information, it will be provided if it is readily available, for example, in committee papers or material published on behalf of the Council. The Chief Executive is free to give advice on a confidential basis about procedural matters to any Member. In doubtful cases, the Chief Executive is entitled to seek the advice of a Chairman or the instructions of a Committee before responding to a request from a Councillor.
7. Councillors and employees must understand that Council decisions can only be made by full Council, Committees or officers acting under delegated authority. Councillors and employees must ensure that representations made to the Council on any matter during any stage of the formal decision making process should be directed to the appropriate Committee. It is particularly important that Councillors understand this when performing their representative role as ward Councillors.

In respect of Authorities operating Alternative Arrangements, the law does not allow for decisions relating to the discharge of any of the Council's functions to be taken by a Chairman or indeed by any other single Councillor.

8. Reports to Committees should be written by the Head of Service or another authorised Officer:

At pre-agenda meetings all reports, including sensitive ones, are discussed with the Chairman and the Chairman may make suggestions to the Head of Service as to its contents. However, the report is the Officer's and even if the Chairman or another Committee member in exceptional circumstances is unhappy with its contents, it should not be amended by the Chairman or another Committee member, save with the express approval of the Head of Service.

In most cases, discussion between the Chairman and the appropriate Head of Service will resolve any disagreement over a report; however if the report of the Head of Service is not regarded as appropriate by the Chairman, then exceptionally the Chairman should write his or her own report in addition to the report submitted by the Head of Service. In this instance, the Chairman should, under no circumstances, use undue pressure to persuade the Head of Service to withdraw the original report.

9. Mutual respect between Officers and Councillors is essential to good local government. Some employees are required to give advice to Councillors as part of their job, but close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other Officers - it should therefore be avoided. It may impair others' perception of the objectivity and independence of the Officer and lead to loss of confidence.

Breach of this rule can easily undermine the Council's decision making process. A breach can render the Officer concerned in contravention of National Conditions of Service; and the Councillor concerned may be in breach of the Local Code of Conduct, which may amount to maladministration.

10. In line with the Code of Conduct's reference to treating others with respect, it is important that any dealings between Councillors and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position. Employees, whether individually or collectively, should not be the subject of attacks or criticism.

In particular, Councillors should avoid naming individual employees, if at all possible, and neither Councillor nor employee should resort to the media to resolve a disagreement between them.

11. The Code of Conduct also requires the promotion of equality by not discriminating unlawfully against any person. Council will regard as a serious offence actions by an employee or a Councillor which amount to work related bullying, harassment, discrimination against or victimisation of any employee or Councillor and particularly so where such action is on the grounds of race, gender or disability.

Bullying can take the form of shouting at an individual, making persistently negative attacks on an individual's personal or professional performance, criticising an individual in front of others, persistently setting objectives with impossible deadlines or unachievable tasks, excessive monitoring of an individual's performance or withholding information with the intent of deliberately affecting an individual's performance.

12. Confidentiality is often vitally important, and must be respected by Councillors and Officers at all times.

A breach of confidentiality may have serious implications for the individual Councillor/Officer who "leaks" the information. A complaint could be made to the Local Government Ombudsman which could result in a finding of maladministration. For Councillors, failure to preserve confidentiality may be a breach of the Code of Conduct and could result in a complaint being made to the Standards Board for England. There may also be a breach of the Data Protection Act, which could amount to a criminal offence.

13. It is the duty of the Chief Executive and each Head of Service to ensure that the work and responses of employees are conducive to and not undermining of, the foregoing general principles. They are entitled to expect Members to respect political restriction and the duties and limitations of employees.
14. It is also the duty of the Chief Executive and each Head of Service to arrange matters so that their employees properly understand the roles of Members and employees and the Council's required approaches to the relations between them. They are also entitled to expect Members to respect the degree of seniority of employees with whom they may have dealings and the fact that, while those employees owe duties to the Council as their employer, such duties are first expressed to their respective Head of Service and or the Chief Executive and not to any individual Member.
15. Correspondence or discussion between an individual Councillor and an Officer should not normally be copied or disclosed (by the Officer) to any other Councillor. Where, exceptionally, it is necessary to copy the correspondence or disclose a conversation to another Councillor, this should be made clear to the original Councillor. In particular, a system of "silent copies" should not be employed.

Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of the Councillor. It may be appropriate in certain circumstances (eg. representations to a Government Minister) for a letter to appear in the name of the Councillor, 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 in the name of a Councillor.

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