

PART 13

PROTOCOL FOR MEMBER/OFFICER RELATIONS

WORCESTER CITY COUNCIL

PROTOCOL FOR 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.
- 1.2 This Protocol forms part of the Council's Constitution and should be read alongside the following documents:
- Group Leaders Protocol
 - Employees' Code of Conduct
 - Members' Code of Conduct
 - Responsibility for Functions
 - Officer Scheme of Delegation
- 1.3 An officer or Member experiencing any difficulties with the application of this Protocol should refer this to the relevant Group Leader(s) and statutory officers as necessary. This does not affect a Member's right to obtain confidential advice from a statutory officer, as required.

2. Basic Principles

- 2.1 Members and officers are indispensable to one another and mutual respect between both is essential for good local government. Together, they bring the critical skills, experience and knowledge required to manage an effective public sector organisation. Members provide a democratic mandate to the Council, whereas officers contribute the professional expertise needed to deliver the policy framework agreed by members.
- 2.2 While collaborative working is the accepted norm for members and officers, it is important to recognise and take account of their different roles. This is necessary for the day to day interaction between members and officers and for the public perception of the Council – by ensuring transparency between the political role of members and the professional, impartial, role of officers.
- 2.3 The Seven Principles of Public Life apply equally to Members and Officers:
- Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership

2.4 The distinction in roles:

| Members | Officers |
|---------------------------------|--|
| Accountable to the electorate | Accountable to the council |
| Community leader for a ward | Serve the whole council |
| Add a political dimension | Politically Impartial |
| Set high level policy/strategy | Ensure operational delivery |
| Involved in senior appointments | Day to day management of financial, physical and staff resources |

2.5 What Members can expect from officers:

- a commitment to the authority as a whole, and not to an individual political group
- a working partnership
- a timely response to enquiries and complaints
- professional advice, not influenced by political views or preference
- integrity, mutual support and appropriate confidentiality.

2.5 What officers can expect from Members:

- political leadership and direction
- a working partnership
- compliance with ethical standards and probity requirements
- non-involvement in the day to day management
- no special considerations.

2.6 Officers are employees of the Council – the people who put policies into effect and organise the provision of services. Officers may also be delegated by Members to make policy decisions. But officers may have to advise members from time to time that certain courses of action cannot be carried out. Officers therefore have a duty to give unbiased professional advice – even if it is not what Members want to hear.

2.7 Officers and Members may have professional differences of opinion about facts or actions taken. In the absence of any sound evidential basis, or conflicting data, this difference of opinion should be not taken to mean there is improper conduct. A difference of opinion should remain a professional disagreement and not become about personal characteristics or perceived motives.

- 2.8 Officers cannot respond to personal criticism in the same way that politicians can and temper their remarks accordingly. Mutual respect and good communication is the key to establishing good member and officer relations. Close personal familiarity should be avoided – in simple terms, ‘be friendly, but don’t be friends’.
- 2.9 Officers and Members have a right to private and family life. They should not feel obliged to accept friend requests on social media, share personal information about themselves, or discuss work related matters when they are not working.
- 2.10 Tips for Effective Working

| Do be: | Don't be: |
|---------------|----------------|
| Impartial | Unhelpful |
| Professional | Jargonistic |
| Authoritative | Arrogant |
| Respectful | Deferential |
| Sensitive | Subservient |
| Positive | Imprudent |
| Communicative | Indiscriminate |
| Discreet | Evasive |
| Reliable | Reliant |
| Friendly | Friends |

3. Officer advice

- 3.1 In reaching their decisions, Members must have regard to the advice given by officers and, in particular, advice offered by the:
- chief financial officer, whose duties are prescribed under section 114 of the Local Government Finance Act 1988;
 - monitoring officer, whose duties are set out under section 5 of the Local Government and Housing Act 1989;
 - chief legal officer, who should be consulted when there is any doubt as to the council’s power to act – or in determining whether any action proposed lies within the policy framework agreed by the council - or where the legal consequences of action or failure to act by the council might have important repercussions.
- 3.2 The statutory officers of the Council are the head of paid service (usually the chief executive), the monitoring officer and the Section 151 officer. All have a duty to advise the council as a corporate body. The ability of these officers to discharge their duties depends not only on effective working relations with their member colleagues, but also on the flow of information and access to the debating processes of politicians. As such, it is crucial that members have a good working relationship with the statutory officers that are based on a clear understanding of their roles and responsibilities.

- 3.3 Other officers provide specialist advice according to their specific roles. This is across the full range of the Council's functions and services and also how the Council itself is administered. Members and officers may agree to appoint external specialist advisors where necessary to ensure that decisions are informed by the requisite levels of expertise and knowledge.
- 3.4 In addition, separate to the Council's ordinary functions, for the administration of elections the Council appoints a Returning Officer and Deputy Returning Officer who have statutory roles to fulfil for which they are personally accountable.
- 3.5 Officers are obliged to provide their best professional impartial advice which is why written reports are provided for all decisions of the Council. Reports are published documents of officer advice. Drafts are shared with relevant Chairs and Vice Chairs and are not for wider circulation unless expressly agreed. Once published, reports serve as a record of officer advice and cannot be changed by Members. Instead, Members can use the relevant Committee meeting to scrutinise reports and seek to change recommendations or obtain further information.
- 3.6 Where Members have in mind to table motions (or amendments) at any meeting of the full Council (or Committee where applicable), they are encouraged to discuss their proposed wording with the Monitoring Officer. The discussion and advice given will be in complete confidence. Any Member with concerns or queries on the accuracy of a Committee or Council report should raise the matter with the relevant Corporate Director prior to the meeting, wherever possible.

4. Setting priorities

- 4.1 Where this Protocol refers to the priorities of the Council and individual Members, four key concepts should be recognised:
- the Council's committee system of governance decides the Council's policies and its priorities;
 - the Managing Director as Head of Paid Service sets the work programme for employees based on agreed Council policies and priorities;
 - the Group Leaders have agreed to work together under a Group Leaders Protocol to ensure the effective administration of the committee system;
 - the extent of Members' rights to information, advice and assistance will be determined by the relevance and significance of the matter to their ward and the Committees they are appointed to.
- 4.2 Policy discussions must take place through the committee system with referral on to full Council where necessary in accordance with the Constitution. Members may make specific requests for information from officers in accordance with this Protocol, but policy discussions should be referred to the relevant Committee.

- 4.3 Officers implement Council decisions and provide Council services under a scheme of delegation. It is not possible to keep Members informed of all matters and decisions which are taken under the scheme of delegation, although officers will act within the principles of openness and transparency.
- 4.4 Significant information about emerging corporate issues, policies, risks, or stakeholders, will be shared with Group Leaders. Significant information relating to the agreed work programme of a particular Committee will be shared with the Chair and Vice Chair of that Committee and/or Member Champion as applicable. Significant local information will be shared with all relevant ward councillors, but this does not mean information will be shared about every individual issue/case/customer that officers are dealing with.
- 4.5 Media relations and corporate communications are dealt with in the Group Leaders Protocol.
- 4.6 Junior officers (below Head of Service level) are not expected to comment on Council policy or engage in lengthy dialogue with members on matters of Council policy or how particular actions/policies/decisions are being implemented.
- 4.7 Members may ask officers for assistance or advice in relation to an activity in their particular ward, but not in another Member's ward. The officer may decline to provide assistance or advice if the activity is not subject to an approved Council policy. Any queries over the application of this section should be referred to the relevant Head of Service or Corporate Director, and Group Leaders as required.
- 4.8 Regular service requests should be made through the Council's normal public channels and will be dealt with according to normal service standards.

5. **Members' Access to Information and to Council Documents**

- 5.1 Members are free to approach any Council department 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. Such approaches should normally be directed to the Corporate Director or another senior officer of the department concerned although on local issues, local Members are encouraged to contact the appropriate officer direct.
- 5.2 As regards the legal rights of members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 5.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a

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 which may appear on the private (pink) agenda for meetings. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

- 5.4 The common law right of Members is much 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.
- 5.5 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 go and examine documents of the Council. 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 Corporate Director whose department holds the document in question (with advice from the Monitoring Officer). In the event of dispute, the question falls to be determined by the Standards Committee.
- 5.6 In some circumstances (e.g. 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 (e.g. 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. The Members' 'need to know' in respect of Ward matters is considered under section 9 below.
- 5.7 Whilst the term "Council document" is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a Member of one party 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 party group.
- 5.8 Agendas and Minutes of the Council and of all Committees and Sub-Committees will be circulated to all Members of the Council.
- 5.9 Officers will deal with Members' requests for information within seven working days of receipt or otherwise as agreed with the Member.
- 5.10 Members visiting Officers at their work places should respect their working environment and the confidentiality of any documentation in that office.

5.11 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. This point is emphasised in the Members' Code of Conduct in the following terms.

"5. A member –

(a) must not in his official capacity, or any other circumstance, use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage;"

6. **Correspondence**

6.1 Members should address correspondence dealing with corporate or policy matters to the Managing Director or the appropriate Corporate Director. Correspondence concerning local issues may be addressed either to the responsible senior manager or to the particular officer who is dealing with the matter.

6.2 Correspondence between an individual Member and an officer should not normally be copied by the officer to any other Member unless:-

- it is a response to correspondence which has itself been copied to other members in which case the same circulation for the response would usually be appropriate
- the member in question has specifically requested that copies of the response be sent to other members
- the correspondence is in response to a question at a formal meeting (i.e. Council, Committee, or Sub-Committee) or in connection with such a meeting, in which case the normal practice would be for the written answer from an officer to be copied to the relevant Committee Chair

6.3 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 a Member. It may be appropriate in certain circumstances (e.g. 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 and should only happen following discussion with and a Corporate Director and/or Monitoring Officer. 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.

7. **Support Services to Members**

The only basis on which the Council can lawfully provide support services 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 for private purposes nor for political purposes unless that use could reasonably be regarded as likely to

facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the Member has been elected or appointed.

8. Officer Advice to Party Groups

- 8.1 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Officers may properly be called upon to support and contribute to such deliberations by party groups.
- 8.2 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 extend 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 present at meetings, or parts of meetings, when matters of party business are to be discussed;
 - (b) party 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 party 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.
- 8.3 Officers should only attend Group meetings following a written request from the Leader of that Group to the Managing Director, who will advise all other Group Leaders of the request and the Officers who will attend (who should normally be Corporate Directors) and offer the other Groups a similar opportunity to have Officer advice on the same subject at their Group meeting. Officers should not be invited to Group meetings to provide information and advice relating to planning applications. Officers should attend Group meetings only to provide information and answer questions and leave before any discussion of a political nature takes place.
- 8.4 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Members' Code of Conduct (in particular, the 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 member only meeting.

8.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.

9. **Involvement of Ward Members**

9.1 In all cases where a matter relates to a particular Ward, reports to meetings should clearly specify the Ward affected.

9.2 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultation exercise on a local issue (excluding statutory consultations on planning applications), the Ward Members should be notified at the outset of the exercise.

9.3 Officers will endeavour to keep Ward members fully informed with regard to all other significant issues affecting their Wards and to provide any relevant background information that may be requested as soon as practically possible. Ward members shall always be informed where sensitive or potentially public issues might arise on which Ward members might reasonably be expected by the public to comment.

9.4 Where a Councillor distributes a leaflet within his or her Ward about particular issues within that Ward, he or she should give their own name as the contact point for queries rather than the name of a Council officer unless the leaflet is a formal Council document whose distribution has been authorised by the Council, a Committee or Sub-Committee.

10. **Public Meetings called by Individual Members or Political Groups**

10.1 If an individual member or a 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.

10.2 Any request for an officer to attend such a meeting must be made through the Managing Director or other Corporate Director and an officer may only attend with the prior express consent of the Managing Director or other Corporate Director.

10.3 It must be made clear to those attending such a meeting that any officer is there in his or her official capacity, is politically neutral and that his or her presence does not signify support for a particular political proposals or initiative. This is essential because of the need for officers to act, and to be seen to act, impartially and to comply with any political restrictions under which they operate.

11. **Complaints**

- 11.1 Should a Member have cause to complain about the actions or failings of any officer of the Council (including any Corporate Director), the Member should in the first instance discuss the matter with the officer concerned unless the Member feels unable to do so. If such discussion does not resolve the problem or the Member concerned does not feel able to raise the issue with the officer, then, in the case of an officer other than a Corporate Director, the Member should lodge his or her complaint, preferably in writing, with the Corporate Director in whose Department the officer concerned works.
- 11.2 If the complaint is against a Corporate Director, the complaint must be lodged in writing with the Managing Director.
- 11.3 If the complaint is against the Managing Director personally the complaint must be lodged in writing with the Monitoring Officer and also (in the case of a complaint about financial irregularity) the Section 151 Officer.
- 11.4 Should an officer have cause to complain about the actions or failings of any Member, the officer should lodge his complaint in writing with the Managing Director who may then take the matter up with the Member's Group Leader or Deputy Leader if the Group Leader is the subject of the complaint.

Repeated or serious complaints

- 11.5 In the event of any repeated or serious complaints by a Member relating to a particular employee, the Corporate Director with responsibility for the service in which the employee works will consult with the Managing Director about the action to be taken.
- 11.6 If the repeated or serious complaints by a Member relate to a Corporate Director (other than the Managing Director or the Monitoring Officer) or a Member of the Council, the Managing Director will confer with the Monitoring Officer (provided that he or she is not the subject of the complaints) and the Section 151 Officer if appropriate as to what further action (if any) might be taken. The Monitoring Officer shall consider in conjunction with the Managing Director and the Section 151 Officer (if appropriate) whether or not a matter should be referred to the Standards Committee for consideration.
- 11.7 If a serious or repeated complaint is made by a Member about the Managing Director, the Monitoring Officer shall consult with all Group Leaders as to the action to be taken.
- 11.8 If a serious or repeated complaint is made by a Member about the Monitoring Officer, the Managing Director shall consult with all Group Leaders as to the action to be taken.
- 11.9 The Standards Committee shall be advised of all repeated or serious complaints by Members relating to the Managing Director, the Monitoring Officer and the Section 151 Officer.