

## SECTION 25

### 25. PROTOCOL ON MEMBER/OFFICER RELATIONS

#### 1.0 Introduction

1.1 Effective local governance and community leadership depends on good working relationships between members and employees.

1.2 This Protocol provides guidance for members (which includes co-opted members) and employees in their working relations with each other. The Protocol covers the more common working situations but is not comprehensive. The principles underlying it may be applicable to other situations.

1.3 This Protocol applies only to working relations between members in their role as members and employees in their capacity as employees.

#### 2.0 Working Relations

2.1 Members and employees shall establish sound and effective working relations that engender mutual respect and put aside any personal differences.

2.2 Members will comply with the Code of Conduct for Councillors and employees with the employees' Code of Conduct.

2.3 The National Conditions of Service for Staff in Local Government provide:  
"The public is entitled to demand, of a local government employee, conduct of the highest standard".

2.4 Members and employees must recognise their different roles, needs and objectives. They must be ready to discuss positively how working relations between each other can most effectively be developed (which is normally undertaken by discussion following elections and periodically thereafter). Members and employees must set aside any personal differences in the interests of maintaining effective working relations.

2.5 It is important that employees develop political awareness of issues that are sensitive to the individual political groups represented on the Council.

#### 3.0 Roles of Members and Employees

3.1 The respective roles of members and employees can be summarised as follows:-

- Members and employees are servants to the public and they are indispensable to one another.
- Their responsibilities are distinct.
- Members are responsible to the electorate and set policy and direction. They can help to guide implementation of policy (especially Cabinet members) but typically do not get involved in decisions on specific cases.
- Employees are responsible to the Council. An employee's job is to give advice to the Council and to carry -out the Council's work under the direction and control of the Council, the Cabinet and relevant committees. Senior employees will help members to develop policy.

3.2 Members have four main areas of responsibility:-

- ☐ Contributing to determining the policy of the Council and giving it leadership;
- ☐ Monitoring and reviewing the performance of the Council in implementing that policy and delivering services;
- ☐ Representing the Council in their local areas and externally;
- ☐ Acting as advocates on behalf of their constituents.;

3.3 An employee's role is:-

- To give advice and information to all members on an impartial basis;
- To help members formulate policies; and
- To implement policies determined by the authority, provided the policies are within the law;:-
- To ensure that the Council complies with its legal obligations;
- In all advice, including reports, it is the responsibility of the employee to express his/her own professional advice in an objective manner and make recommendations based on this.

3.4 Through performance appraisal, target setting and day to day management, employees receive guidance and direction from their Line Managers. Members are not authorised to ask employees to undertake specific tasks other than:-

- Through the formal decision-making process (Council, Cabinet, Committees etc);
- To request the provision of consumable resources provided by the Council for the use of members;
- Where staff have been specifically allocated to give support to a member, a group of members, or all members.

## 4.0 Expectations

4.1 members can expect from employees:-

- a) A commitment to the Council as a whole and not to any political group.
- b) A working partnership.
- c) An understanding of and support for respective roles, workloads and the differing pressures.
- d) Timely response to enquiries and complaints in accordance with the agreed procedure for handling member queries.
- e) Clear, objective advice, not influenced by political views or preference, which does not compromise the political neutrality of employees.
- f) 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.
- g) Awareness of and sensitivity to the political environment.
- h) Respect, courtesy and dignified behaviour appropriate to the occasion.
- i) Training and development in order to carry out their role effectively.
- j) A high level of integrity and confidentiality, appropriate to the situation.
- k) Not to have employees' personal issues raised with them outside the agreed procedures.
- l) That they will not attempt to influence improperly any member to advance employees' personal interests or influence improperly a decision
- m) At all times compliance with the Code of Conduct for employees

n) Support for the role of members as the local representatives of the Council, within any scheme of support for members, which may be approved by the authority.

4.2 Employees can expect from members:

- a) A working partnership.
- b) An understanding of and support for respective roles, workloads and differing pressures.
- c) Leadership and direction.
- d) Respect for their advice and as a person, courtesy and dignified behaviour appropriate to the occasion as set out within the Flintshire Standard.
- e) A high level of integrity and confidentiality appropriate to the situation.
- f) Not to be subject to bullying or to be put under undue pressure to accord with a member's wishes especially where the member is asking the employee to breach council policy, approved working practices, or the to undertake an action that isn't lawful;
- g) Not to use their position or relationship with employees improperly to advance their personal interests, or those of others, or to improperly influence decisions.
- h) That members will at all times comply with the ~~Council's~~ Code of Conduct for Councillors.
- i) Appropriate scrutiny of decisions that focuses on objective measures of performance and outcomes
- j) Respect for differing working hours and working patterns with appropriate time being allowed for responding to queries and concerns as set out in the agreed procedure
- k) not to have their performance, competence or motives criticised in public (whether in a council meeting or otherwise)

## 5.0 Courtesy

5.1 Mutual respect between members and employees is essential, it is important that any dealings between the parties should observe the highest standards of behaviour and courtesy towards each other and will not take or attempt to take unfair advantage of their position.

5.2 Members and employees should have regard to the formality of the occasion as to the mode of address they choose to adopt. In particular, in formally convened meetings and/or meetings open to the public a formal mode of address should be adopted. In all other cases members and employees will respect preferred modes of address.

5.3 The behaviours expected are set out in more detail within the Flintshire Standard which also includes a mechanism for informally resolving disputes between members and employees.

## 6 Employees Giving Advice and Information to Political Groups

6.1 There is ~~now~~ statutory recognition for political groups, ~~and it~~ It is common practice for such groups to give preliminary consideration to matters of Council business in advance of ~~such matters~~ them being considered ~~by the relevant Council decision-making body~~ at Council, Cabinet or Committee. ~~However, though for some committees (such as Planning Committee and Overview and Scrutiny Committees) it is not appropriate to apply a "political whip".~~ Employees may properly be called upon to support and contribute to such deliberations by political groups.

6.2 The support provided by employees can take many forms, ranging from a briefing meeting with a Chairperson or Spokesperson prior to a Committee meeting, to a presentation to a full political group meeting. Whilst in practice such employee support is likely to be in most demand from whichever political group is for the time being in control of the Council, such support is available to all political groups.

6.3 Certain points must, however, be clearly understood by all those participating in this type of process, members and Employees alike. In particular:

- (a) Employee support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Employees must not be involved in advising on matters of political group business. The observance of this distinction will be assisted if employees are not expected to be present at meetings, or parts of meetings, when matters of political group business are to be discussed;
- (b) Political 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 employees provide information and advice to a political 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 County Council or the relevant Committee or Sub-Committee when the matter in question is considered.

6.4 Special care needs to be exercised whenever employees are involved in providing information and advice to a political group meeting which includes persons who are not members of the Council. Such persons will not be bound by the ~~National Code of Local Government Conduct~~Code of Conduct for Councillors (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons ~~Officers~~employees may not be able to provide the same level of information and advice as they would to a members only meeting.

6.5 Employees must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussions to another political group.

6.6 Any particular cases of difficulty or uncertainty in this area of employee advice to political groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

## 7.0 **Support Services to members**

7.1 Members will use support services and resources provided by the Council only for Council business. Support services shall not be used for political or campaigning activity, or for private purposes.

7.2 The Council provides support services to members ~~only in designated areas~~ (including stationery, IT facilities, printing, photo-copying, travel, transport and parking arrangement, etc.) to assist members in discharging their role as members of the Council.

7.3 Support services are provided to ~~the Political Group Leaders~~ by the members' Services Section of the ~~Democracy and Governance Manager Department~~Portfolio. Individual

~~Departments Services~~ may, in addition, provide support services to a Cabinet ~~Member~~member with Portfolio, Lead members, Chairs of Scrutiny Committees and Panel Chairs.

## 8.0 **Communications and Meetings**

8.1 Members and employees will not, without the agreement of the author, copy a communication, whether physical or electronic, from a member of the public (including MPs, AMs or MEPs) or member to another member or to any other third party. This is not intended to restrict the normal sharing of correspondence by employees with each other and their managers in order to respond to and handle that communication.

8.2 Most correspondence between employees or from employees to members will be open and may be copied as a part of the normal arrangements for dealing with the matter within it. Members and employees may from time to time raise matters confidentially with each other and such confidences shall be respected.

8.3 It may be necessary or appropriate for an employee to discuss the content of a confidential communication with ~~another~~ member, particularly where political consultation is required before action is taken under employee delegated powers. In these circumstances, the communication should not be copied or shown to another member or the identity of the author revealed without the express permission of that author.

8.4 Official communications on behalf of the Council should ~~normally~~ be sent out over in the name of the appropriate employee, rather than ~~over in~~ the name of a member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister or Assembly Secretary) for a communication to appear over in the name of a member, but this should be the exception rather than the norm. Communications which, for example, create obligations or give instructions on behalf of the Council should never be sent out over in the name of a member.

8.5 Members and employees need to meet or speak to discuss Council business. Employees will often keep a written note of such meetings as an aide memoire. Sometimes a more formal note of the discussion will be prepared such as a confirmatory email or minutes. Such record keeping is to be expected and is normally taken to be agreed. Covert recording of meetings or conversations must not take place.

## 9.0 **Specific member/employee Working Relations**

9.1 Members and employees will not allow a working relationship to become so close or appear to be so close as to bring into question the employee's ability to deal impartially with other members, political groups and other employees. Where a member and an employee have a close relationship (whether familial, social, business, emotional etc) its existence must be declared, through the relevant process for declaring interests, so that appropriate steps can be taken to ensure that the relationship does not

- impinge upon the functioning of the Council or the exercise of council functions
- undermine or circumvent procedural safeguards
- impact upon the Council's reputation

9.2 Members and employees are both required under their respective codes of conduct to declare interests when they have a personal stake in the outcome of a decision. Whilst the systems are not exactly the same, as reflect their different roles, openness is important. Where a member or employee have an interest in a matter that interest must be disclosed when discussing or corresponding on an issue.

9.3 Cabinet members with Portfolios, Lead members and other appropriate members will routinely be consulted by employees, prior to making decisions under delegated powers.

9.34 The Cabinet member and/or the Chair and/or the Vice-Chair of the Committee or Panel will be consulted as a part of the agenda preparation for meetings.

9.54 Employees having delegated decision-making authority are entitled, where considered expedient, to refer a matter to the Cabinet Committee or appropriate Sub-Committee for decision. Employees are responsible for the contents of all reports submitted in their name.

9.56 Members must acknowledge that employees within a department are accountable to their Chief Officer. Employees should always be prepared to assist members, but they cannot go beyond the bounds of the authority given to them by their Chief Officer and they must not be asked to do so. Members must also recognise that employees are bound by legislation, professional standards, codes of conduct or professional ethics and they should not be asked to go outside of the bounds set in such codes.

## 10.0 Involvement of Ward Councillors

10.1 Ward members will be invited to attend any public meeting organised by the Council which relates to issues affecting their ward.

10.2 Ward members must be apprised of local issues affecting their ward and involved in any public meeting or consultation exercise. They must be notified, at the outset, of any consultation on a local issue affecting their ward.

10.3 It is the responsibility of a member who invites an employee to a public meeting, or who is present at a public meeting to which an employee has been invited by others, to ensure that the employee is treated with appropriate levels of courtesy and respect by those at the meeting.

## 11.0 Members' Access to Information and to Council Documents

11.1 Members have legal rights to access information and -Council documents that go beyond the rights enjoyed by members of the public. The law relating to member's rights to information is complex and includes common law and statutory rights. ~~The law also changes from time to time with new legislation or new case law~~The Council has agreed procedures for what information will be shared with members. If at any time a member believes access to information or Council documents is being denied contrary to the member's legal rights the issue should be raised with the Monitoring Officer or a member of the Legal Service~~a Senior Officer in the Legal & Democratic Services Department.~~

11.2 Members act on behalf of their residents and will often be privy to personal information about their residents. An employee is to assume that any member acting for a resident within their ward has the consent of that resident to receive personal data about that

resident. This does not apply where members are acting for people who live in other wards or where members are asking for personal data about someone who hasn't asked to be represented by that member.

#### **124.0 Confidentiality of Reports and Correspondence**

124.1 All Chief Officers have a duty to satisfy themselves that Committee reports to which they are signatories are only classified as 'exempt information' when the statutory criteria for confidentiality are met. The Chief Executive and the Chief Officer, Governance have an overriding responsibility to determine this compliance.

124.2 Once a report has been issued within Part II of the agenda for a meeting and until a Committee decides that it should ~~not~~ be discussed in ~~the absence of the press and~~ public, members and employees must respect the confidentiality of the report and not disclose it to a third party.

142.3 It does not, however, follow that all the contents of the report must be regarded as secret. It may only be certain items of information or terms of negotiations that justify the inclusion of that report within Part II; other aspects may already be within the public domain or otherwise outside the definition of 'exempt'. A member may accordingly refer to these aspects in discussions with third parties but must exercise proper care and judgement not to reveal those elements of the paper which are protected but it will always be prudent for that member to consult the Chief Officer, Governance before doing so.

#### **123.0 Access to Council Premises**

123.1 All members of the Council shall be entitled to use, and have access to, any Council building or premises, when that building or the premises are open, as follows:

a) anywhere which is open to the public;

b) the Council Chamber and Committee Rooms for the purposes of attending and/or observing scheduled meetings of the Council, its Committees and Sub-Committees, Fora and the Cabinet (subject to any restrictions set out in the Access to Information Procedure Rules) or any public meeting held in those rooms by any other agency or body.

c) areas set aside for the use of members as a whole (such as the members' Services Suite), as a group (such as group rooms), or as an individual (such as the Leader's office, Chair's parlour etc)

d) any room to which the member has been invited for a meeting by an employee.  
the canteen

~~12.2 Subject to the provisions set out below, Members shall also be entitled to have access to any other part of any Council building or premises open to members of the public between 8.00 am and 6.00 pm.~~

~~12.3 In addition, subject to the provisions set out below, Members shall have access to the Chimney Entrance, the Canteen, the Bridge Link and the areas outside the Council Chamber and Committees Rooms between 8.00 am and 6.00 pm.~~

123.042 Such access is to be used for Council purposes and fulfilling the member's role and responsibilities within the Council only. Members, when they are not acting in pursuit of their roles and duties as a member, shall have no greater rights of access to Council buildings and premises than members of the public.

~~12.5 All Members shall also be entitled to access and use the facilities provided for in the Members' Services Suite between the hours of 8.00 am and 6.00 pm during weekdays (excluding bank holidays).~~

~~13.32.6~~ There is a general presumption that members will not require access to Council buildings ~~before 8.00 am or after 6.00 pm~~ outside of the hours 7.30 am to 7.00 pm except for scheduled or public meetings referred to in 143.1 above. In exceptional circumstances where a member remains in the building beyond 67.00 pm, he/she must inform security of his/her presence and location and give an indication as to how long he/she intends to stay.

~~13.42.7~~ Where individual political Ggroups have been allotted rooms for their sole use ("group rooms"), members of that group shall be entitled to have access to the group room ~~set aside for the use of the Group to which he or she belongs~~ subject to any reasonable restrictions which that gGroup may wish to place upon access from time to time.

~~12.8 Any Committee Chair or Cabinet Member~~ member ~~who has been allocated a room shall also be entitled to access to the room so allocated for the purposes of the consultation responsibilities arising under the Delegation Scheme or for any other business arising from their roles and responsibilities~~

~~12.9 All Member~~ members ~~who have been invited to attend meetings elsewhere in County Hall shall be entitled to have access to all corridors, stairwells and other reception areas through which it is necessary to pass to enable them to attend. The same limitation shall apply to Committee Chairs and Cabinet Member~~ members ~~under 12.8 above.~~

~~12.10~~ 13.05 Members shall not be entitled to enter certain restricted sensitive areas including the central computer suite, benefits service (including the corridor on that part of the ground floor on Phase 2), payroll, and child protection unless by invitation of the Chief employee or a duly authorised employee in exceptional circumstances.

~~12.11~~ 13.06 Subject to 13.01 and 13.05 above, ~~there is a presumption that~~ members will not be entitled to enter other ~~staff only~~ areas in Council buildings so as to preserve the physical security of personal data under GDPR and so as to respect the fact that they are workplaces where employees are expected to be concentrating on their duties. members may enter such areas following express invitation to attend a meeting with an employee, or to arrange a meeting with an employee. ~~authorisation by the relevant Chief Officer~~ employee ~~or someone duly authorised to give such authorisation.~~ When seeking meetings, members will endeavour to make appointments with employees in advance giving them sufficient time to research the matter to be discussed. A suitable venue for the proposed meeting will be arranged at that time.

~~Staff only areas include individual rooms, open plan areas, management suites, internal reception areas not open to the public.~~

~~12.12~~ 13.07 In situations where members and employees inadvertently meet in the course of their business there should be no expectation on the part of the member that the employee will deal with any issue that the member wishes to raise, unless both agree that it is an urgent issue which cannot wait for a formal appointment to be arranged.

~~12.13 Any contravention of the above provisions shall be reported to the Council's Monitoring Officer who will in the first instance attempt to resolve the issue appropriately. If he is unable to resolve the issue he will report the matter to the Standards Committee. He~~

~~will also make an annual report to the Standards Committee on the operation of this part of the Protocol.~~

#### **134.0 Criticism of members and employees**

~~1314.1~~ 134.1 As employer, the Council has a duty to provide and maintain a working environment which is reasonably tolerable to all employees and to protect them from unacceptable treatment and behaviour and unauthorised interference in work duties. All members must ensure they discharge their duties as employer fairly and impartially and not do anything to undermine the relationship of mutual trust and confidence which must exist between the Council and its employees.

134.2 No public comment will be made on ongoing disciplinary proceedings as it could prejudice their outcome or breach the confidentiality that employees are entitled to expect in relations to such matters.

14.3 Employees are also required by their code not to criticise the council in a manner which could undermine the duty of mutual trust and confidence. In the case of employees, who are required to be politically neutral, making overtly political comments could, amongst other things, be one way to undermine that mutual trust and confidence.

#### **145.0 Political Group Leaders and the Chief Executive**

145.1 The Political Group Leaders and the Chief Executive will develop and conduct appropriate working relations.

154.2 Regular Briefing arrangements between the Political Group Leaders and the Chief Executive are an essential part of the democratic machinery of the Council. It is important that the Chief Executive, as Head of the Paid Service, is accessible by all political groups represented on the Council through their respective Leaders.

#### **156.0 Issues regarding Working Relations between members and employees**

156.1 Members and employees will seek to resolve any issues arising within their working relations. In the first instance this will be done by the relevant member and employee.

~~165.2 Officers will, in the first instance, endeavour~~ Where a member and an employee are unable to resolve any such issue then the:

- member's Group Leader; and/or
- employee's line manager and/or Chief Officer

may be involved as a further informal step.

16.3 If informal methods fail then the Local Resolution Process in the Flintshire Standard may be used. For serious breaches of this protocol that also include breaches of the councillors' code of conduct or employees code then resolution may require/include a referral to the Public Services Ombudsman for Wales (councillors) or disciplinary investigation (employees)

165.3 The relevant Political Group Leader and the Chief Executive will seek to resolve by mediation and conciliation any unresolved problem or breakdown in working relationships between members and employees.

#### **176.0 Review**

167.1 This Protocol will be reviewed from time to time ~~and/or in the light of subsequent legislation.~~