

# PART 5 - PROTOCOL ON MEMBER/OFFICER RELATIONS

## Introduction

1. An effective working relationship between elected Members of the Council ('Members') and Council staff ('Officers') is critical to the successful operation of Council business. Excellent working relationships are required to deliver best value services to local citizens and to maintain confidence in local government in Bristol. This protocol is designed to help Members and Officers to perform effectively by giving guidance on their respective roles and their relationship with each other. This protocol applies to independent Chairs and Members of committees when they are acting in that capacity.

## Respective roles

2. Members and Officers are public servants. They are indispensable to each other, but their responsibilities are distinct. All Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council as a corporate body and not to any single Member. Their job is to give advice to all Members and to the authority, and to carry out the authority's work under the direction and control of the Council and relevant Committees. Officers are accountable to the Head of Paid Service.

The role of Political Assistants is covered under specific legislation.<sup>1</sup>

3. Respect between Members and Officers, both personally and for their different roles, is crucial to the successful operation of the Council's business.

## Members' roles

4. Members generally have six main areas of responsibility:
  - (a) Determining Council Policy, Budget and Strategy;
  - (b) Making decisions within overall Council policy (for example on planning applications, or on the establishment or closure of a school);
  - (c) Monitoring and reviewing performance;
  - (d) Representing Bristol and the Local Authority;
  - (e) Community Leadership;
  - (f) Acting as advocates on behalf of constituents;

It is not the role of Members to involve themselves in the day-to-day management of the Council's services.

5. The Leader, Deputy Leader Committee Chairs and Vice Chairs have additional powers or responsibilities. As a result, their relationships with Officers may differ from

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<sup>1</sup> [S.9 Local Government and Housing Act 1989](#)

and have additional complexity compared to those of Members without those responsibilities. However, such Members must still respect that Officers have a duty to be impartial and therefore must not ask them to undertake work of a political nature.

6. All Members have the same rights and duties in their relationships with Officers.

### **Officers' Roles**

7. The role of Officers is to give advice and information to Members to inform their decision making and to implement the policies and decisions of the Council. In giving their advice, it is the responsibility of the Officer to present their professional views and recommendations. Members must not pressurise an Officer to make a recommendation contrary to their professional view or seek to persuade an Officer to withdraw a report.
8. In discharging their role as an Officer of the authority, staff must act in a politically neutral way.
9. Certain officers<sup>2</sup> hold statutory posts, which confer legal responsibilities over and above their obligations to the authority and its Members. Members must respect these obligations and must not obstruct them in the discharge of these responsibilities. Certain Officers hold politically restricted posts. Additional guidance can be found at Appendix A.

### **Expectations**

10. Members can expect from Officers:
  - (a) Commitment to the Council as a whole and not only to a part of it, or to any political group;
  - (b) Promote equality and treat others with respect and courtesy;
  - (c) The highest standards of integrity;
  - (d) A working partnership;
  - (e) An understanding of and support for respective roles, workloads and pressures;
  - (f) Timely responses to enquiries and complaints i.e. within the corporate standard of 7 working days;
  - (g) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers;
  - (h) Regular up-to-date information that is appropriate and relevant to their needs, having regard to any individual responsibilities that they have;
  - (i) Awareness of and sensitivity to the political environment;
  - (j) Training and development in order to carry out their role effectively;
  - (k) Appropriate confidentiality;
  - (l) Support for the role of Members as the local representatives of the authority;
  - (m) Compliance with the Employees' Code of Conduct.

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<sup>2</sup> Head of Paid Service, Monitoring Officer, Chief Finance Officer, Director of Adult Social Services, Director of Children's Services, Director of Public Health and Statutory Scrutiny Officer.

Officers can expect from Members:

- (a) Promote equality and treat others with respect and courtesy;
- (b) The highest standards of integrity, including maintaining confidentiality where required;
- (c) A working partnership;
- (d) An understanding of and support for individual Officers' roles, workloads and pressures;
- (e) Political leadership;
- (f) Not to be subject to bullying or to be put under pressure, taking into consideration the seniority of roles and potential vulnerability of Officers in junior roles;
- (g) That Members will not use their position or relationships with Officers to seek to advance their personal interests, or those of others, or to influence decisions improperly;
- (h) Compliance with the Members' Code of Conduct;
- (i) Participation in any mandatory training sessions e.g. before sitting on Selection or Regulatory Committees.

### **Close Personal Relationships**

11. Both Members and Officers must maintain public confidence in the separation of their roles. Close personal relationships between Members and Officers can cause confusion and get in the way of the proper discharge of the authority's functions. Members and Officer must declare to the Chief Executive any relationships which may be seen as influencing their work to avoid creating any appearance of improper conduct.

### **Political Groups**

12. The operation of political groups is an integral feature of local government. They have an important part to play in the development of policy and the political management of the authority. It is in the interest of the authority to support the effective operation of political groups.
13. The impartiality of Officers should not be compromised through their support of political groups. Officers may assist party groups if requested to do so, but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner. All groups must be informed of party briefings and offered an identical session.
14. Officers may not engage in political discussion when attending party group meetings. Information will be provided on the issue being considered and appropriate questions answered. Officers must withdraw after any briefing and questions, and before political discussion commences. Officers should not support political groups by writing political reports.

Party group meetings do not make decisions on behalf of the Council. Where Officers provide information and advice to a party group meeting in relation to Council business, this is not a substitute for providing all necessary information and advice to

the relevant Committee or Sub-Committee of the Council when the matter in question is considered.

15. Special care needs to be taken if Officers are providing information and advice to a party group meeting which includes people who are neither Members nor Officers of the Council, as they are not bound by the Council Code of Conduct. Officers must be cautious about attending and/or giving advice to such meetings and seek guidance from the Head of Paid service or the Monitoring Officer if they have any concerns about doing so.
16. Officers must respect the confidentiality of any party group discussions at which they are present and in particular they must not relay the content of any discussion to another party group.
17. The Council can only provide support services (e.g. stationery, typing, printing, photocopying, transport etc.) to Members to assist them in discharging their role as Members of the Council. It is recognised that some Members may need additional support. Council resources should not be used in connection with party political or campaigning activity or for private purposes, including the use of ICT and social media as set out in the Member Code of Conduct.

### **Decision-making by Full Council or Policy Committees and Officers**

18. The following arrangements will apply to formal decision-making by Full Council, Policy Committees and Officers.
  - (a) Under the Council's Constitution decisions may be made by Full Council, committees or sub-committees. The Council's Constitution provides that Member decisions may only be taken on the basis of a written report containing all relevant considerations. Reports to the Policy Committees or sub-committees should be written by the Executive Director or another officer authorised by them.
  - (b) Members of a committee or sub-committee shall take decisions within the remit of that committee or sub-committee and will not otherwise instruct Officers to act.
  - (c) At some committee or sub-committee meetings, a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the Chair (or other Members). In these circumstances it is the Officer, not the Chair, who takes the action and is responsible for it.
  - (d) Senior Officers (including the Monitoring Officer and the Chief Finance Officer) have the right to attend meetings and to present reports and give advice to committees and sub-committees.

Additional guidance can be found at Appendix A.

### **Chair, Vice-chair and Group Spokespersons briefings**

19. The following arrangements will apply to Chair, Vice-chair and Group Spokespersons briefings.

- (a) Regular briefings will be given to the Chair and Vice-chair of Policy Committees by officers and the decision logs and actions from those briefings will be made available to all members of the relevant policy committee. Briefings for the Chair and Vice-chair are not formal decision-making meetings as decisions under the Committee Model of governance cannot be taken by individual members: they can only be made by a committee or delegated to officers.
- (b) Agenda setting meetings for policy committees will include the Chair, Vice-chair and Group Spokespersons and will be attended by senior officers.

### **Local Ward Member briefings**

20. The following arrangements will apply to Local Ward Member briefings.

- (a) Where Officers are dealing with a local ward issue, they shall ensure that all Local Ward Members are appropriately briefed on the issue.
- (b) Where a Local Ward Member requests a meeting on a local ward issue with Officers, Officers shall ensure that meetings are arranged in a timely way.
- (c) All briefings and meetings between Local Ward Members and Officers about a local ward issue will need to be mindful of any formal process that is being carried out.
- (d) General information regarding activities in a particular ward, should, where appropriate, be sent to all Local Ward Members for information.

### **Communications, including electronic communications**

21. The following arrangements will apply to communications on behalf of the Council and to the use of electronic communications.

- (a) Official letters written on behalf of the Council dealing with Council business should normally be in the name of the relevant Officer. It may be appropriate in some circumstances (e.g. representations to a Government Minister) for letters to appear in the name of the Leader of the Council or the Chair of a Policy Committee or other Committee of the Council.
- (b) Members should pass all correspondence relating to Council business to Officers, so that Officers can respond on behalf of the Council.
- (c) Correspondence between an individual Member and an Officer should not be shared with any other Member.
- (d) Correspondence which creates legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Member.
- (e) Officers can provide Members with technical, Council information, which Members can use as part of their own correspondence and Members should correspond in their own name. When writing in an individual capacity, Members must make clear that fact.
- (f) Members and Officers should follow the Council's Electronic Communications Policy at all times.

## Access to Information

22. Members have a right to view Council documents (including both exempt and confidential material) in accordance with the statutory framework, i.e. where matters are to be considered at a formal committee meeting of the Council. Members may also be entitled to access information which is reasonably necessary to enable them to exercise their duties as a Member of the Council. Members with a particular role may have an additional (and in some cases statutory) right to access information, for example:
  - (a) Policy Committee Members - matters relating to any policy committee of which they are a member;
  - (b) Ward Members - matters with particular implications for the ward (i.e. significantly more than for the general city).
23. All Members are also entitled to be briefed, as appropriate, on the same basis and within the same constraints as set out above.
24. Access to information is also limited where:
  - (a) The information is primarily needed for a non-Council purpose;
  - (b) There is a conflict of interest;
  - (c) There is an over-riding individual right of confidentiality (for example, in a children's or employment matter).
25. The Proper Officer (Director of Legal and Democratic services) will make final decisions on Member access to information. Full Council appoints an officer to discharge certain statutory functions known as the Proper Officer. The relevant Proper Officer for access to information is the Director of Legal and Democratic Services<sup>3</sup>.
26. Members may have access to exempt information in reports or exempt appendices. Exempt information is defined in our Constitution in the Access to Information Procedure rules [APR10.3](#).
27. The presumption is that all information in formal reports should be open to the public but, where this is not possible, the public will be made aware of the nature of any information that is being discussed in exempt session. Any exempt information will, wherever possible, be contained in an exempt appendix.
28. The process for deciding on whether information in a report is exempt and the relevant Member access is as follows:
  - (a) Report authors must ensure that as much information as possible is open by using exempt appendices and/or redactions;
  - (b) Where an Officer considers that information may be exempt, the Proper Officer will decide based on the rules set out above;

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<sup>3</sup> A list of Proper Officer functions can be found in the Constitution

- (c) If the Proper Officer is satisfied that there is information that may need to be discussed in exempt session, they will consult with the Chair of the relevant Policy Committee;

Members of the relevant Policy Committee will be given access to the exempt information in the report once the papers are published.

- 29. Apart from information in reports, confidential material may be shared with Members if requested (except where there is an overriding Council interest e.g. protecting its legal and financial position) and natural justice requires disclosure (for example, giving an individual the chance to respond to allegations). All requests for access to confidential information will be considered by the Proper Officer.
- 30. The Chairs and Vice-chairs of Policy Committees are entitled to regular confidential briefings on matters relevant to their portfolios and in support of the policies they are developing, prior to the formulation of formal proposals. Informal briefings cannot be a substitute for providing all necessary advice in the formal decision-making process. Officers must ensure that their objective professional advice is robustly presented in the formal report.
- 31. Any unauthorised disclosure of Council documents will be treated as a breach of the Code of Conduct for Members (and Officers) and may also expose the Member to the risk of legal action from a third party.

## **Publicity**

- 32. The Council has a duty to publicise its services and activity and to explain its objectives and policies to citizens in an accessible manner.
- 33. The Government has issued a code of Recommended Practice on Local Authority Publicity which deals with the conventions that apply to publicity. It requires that all local authorities shall have regard to its provisions in reaching decisions relating to publicity.
- 34. Particular care should be taken in relation to any publicity in the run-up to an election. Prior to each pre-election period, specific guidance is provided by the Monitoring Officer to all Members and Officers on the necessary precautions required in relation to publicity.
- 35. The Code does not apply to press releases and publicity that Members may arrange and distribute in their individual political capacity. Members should refer to the Member Code of Conduct, which sets out the requirements related to publicity and communications. Members should neither use Council resources for party political purposes, nor ask officers to do so.

## **Dispute Resolution**

36. If an officer or a member feels that the protocol has not been followed, then they should raise it with the officer or member in question and if the matter is not resolved, it should be referred to the officer's line manager or the member's Party Group Whip or Leader as appropriate.

Further advice on the application of this Protocol can be obtained from the Monitoring Officer. This Protocol will be reviewed annually by the Values and Ethics Sub Committee of the Audit Committee and guidance on its application will be provided as appropriate.



## Additional Guidance Notes

### 1. Decision-making

- 1.1 Officer advice should be obtained, if possible, before the meeting on any alternative recommendation to be moved in order to ensure that relevant operational, financial and legal factors are taken into account.
- 1.2 The principle of unified advice requires that financial and legal and other implications of a decision are obtained and made clear in the report. The Article 14 principles of decision making must be taken into account when preparing the report.
- 1.3 The Chairs and Vice-chairs of Policy Committees will determine the timetable for developing their policies, including:
  - (a) The point at which confidential ideas become formal proposals for publication;
  - (b) Who to consult and to what deadline;
  - (c) The timing of executive reports.
- 1.4 The Chief Financial Officer and/or the Monitoring Officer may require a report to be withdrawn.

### 2. Councillor Involvement in Casework and Staff Issues

- 2.1 A Member pursuing a ward matter on behalf of a family member or friend should declare the relationship and consider whether to ask another Member to represent.
- 2.2 Members should not provide a reference in relation to staffing matters within the Council (other than in exceptional circumstances). They should avoid involvement in staff lobbying outside of formal procedures.
- 2.3 Officers may raise issues with their local Councillor as citizens. They should not lobby a Councillor inappropriately on personal employment or budgetary matters in accordance with the Code of Conduct for Employees.
- 2.4 Councillors should refuse to respond to inappropriate lobbying from Officers and inform the Head of Paid Service who can direct the individual to the appropriate channels.
- 2.5 Senior Officers should ensure their staff are aware of these requirements and ways that their views can be put forward.

### **3. Politically Restricted Posts**

3.1. The Local Government and Housing Act 1989 introduced a regime aimed at ensuring that key local authority employees are politically impartial. The Act designates certain posts as 'politically restricted' and those who hold such positions are disqualified from holding office as a Member of Parliament or Member of a local authority.

3.2 The following posts are politically restricted:

- (a) The Head of Paid service;
- (b) The Monitoring Officer and the Chief Financial Officer;
- (c) The Chief Officers and Deputy Chief Officers;
- (d) Any other posts that conduct the following activities:
  - (i) Giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented or to the executive of the authority, to any committee of that executive, or to any member of that executive who is also a member of the authority;
  - (ii) Speaking on behalf of the authority on a regular basis to journalists or broadcasters.

It is possible for Officers to apply to be removed from the list and details can be obtained from the Monitoring Officer.