



MEMBER/OFFICER PROTOCOL

Bristol City Council

May 2018

Member/Officer Relations Protocol

1. INTRODUCTION

- 1.1 The purpose of this protocol is to guide Members and officers of the Council in their relations with one another. The strength of the relationship between Members and officers is vital in ensuring that the Council practices the highest ethical standards in both its private and public dealings.
- 1.2 This Protocol also seeks to reflect the principles underlying the [respective rules of conduct](#) which apply to Members and officers. The purpose of the rules and this protocol is to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct. Members and paid officers each have their own separate [Codes of Conduct](#). This protocol underpins those documents and focuses particularly on the interaction between Members and officers; deals primarily with Members' and officers' own separate responsibilities; and refers to the working relationship between Members and senior officers who formally advise the Council
- 1.3 An effective working relationship between Members and officers is crucial to the successful operation of the Council's business. This relationship within Bristol City Council is characterised by mutual trust, respect and understanding between politicians and paid officers – this is one of the keys to achieving effective local government.

2. THE RELATIONSHIP: GENERAL POINTS

- 2.1 Both members and officers are servants of the public and they are indispensable to one another but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the authority. Their job is to give advice to all members and to carry out Bristol City Council's work under the direction and control of the Head of Paid Services and as set out by the council's committees and sub committees.
- 2.2 At the heart of the Code, and this Protocol, is the importance of mutual respect. Member/officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between members and officers should observe standards of courtesy and that neither should seek to take unfair advantage of their position or seek to exert undue influence on the other
- 2.3 Inappropriate relationships can be inferred from language/style. Therefore members and officers should always seek to address each other with courtesy.
- 2.4 A member should not raise matters relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. An officer has no means of responding to such criticism in public. If a member feels she/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an officer, and fails to resolve it through direct discussion with the officer, then she/he should raise this with the Monitoring Officer or Head of Paid Service. The Monitoring Officer and/or Head of Paid Service will then look into the facts and report back to the member. Any action taken against an officer in respect of a complaint will

be in accordance with the provisions of [Bristol City Council's Disciplinary and Capability Procedures](#).

- 2.5 An officer should not raise, in public with a member, matters relating to the conduct or capability of another officer or the internal management of Bristol City Council in a manner that is incompatible with the overall objectives of this Protocol. If such issues are raised by members then the matter will be dealt with in accordance with the Employees' Code of Conduct and Bristol City Council's Disciplinary Rules and Procedures. Unwarranted criticism of officers by members is inappropriate and not permissible particularly as they cannot respond on equal terms such as at public Bristol City Council meetings.
- 2.6 Where an officer feels that she/he has not been properly treated with respect and courtesy by a member, she/he should raise the matter with his/her Director, especially if they do not feel able to discuss it directly with the member concerned. In these circumstances the Director will take appropriate action by approaching the individual member. If the matter cannot be resolved to the satisfaction of the employee concerned, the matter will be assessed by the Monitoring Officer and if appropriate be referred to the Value and Ethics Committee.

3. THE RELATIONSHIP: OFFICER SUPPORT TO MEMBERS: GENERAL POINTS

- 3.1 Members are democratically accountable and may have political affiliations. They have a clear role in providing leadership within Bristol's communities and as members of Bristol City Council to represent the constituents of their wards.

Officers are responsible for day-to-day managerial and operational decisions within the Council and provide services to the local community.

- 3.2 Certain statutory officers – the Head of Paid Service, the Monitoring Officer, Statutory Scrutiny Officer and the Chief Financial Officer (Section 151) – have specific roles and these are set out in the Constitution. These roles need to be understood and respected by all members.

- 3.3 The following key principles reflect the way in which officers generally relate to members:-

- a) Members are responsible to the electorate and serve until their term of office expires. As elected Members, they are responsible for determining Council Policy, Budget and Strategy.
- b) Officers are employed by, and are responsible to, the Council and as such are responsible for implementing policy and delivering services within budget. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive (the Mayor, Individual Cabinet Members and the Cabinet) and their Committees, and are accountable to the Head of Paid Service.

- 3.4 On occasion, a decision may be reached which authorises named officers to take action between meetings following consultation with a member or members (Delegation). It must be recognised that it is the officer, rather than the member or members, who takes the action but it is the member who remains accountable for it.

- 3.5 Officers should always seek to assist members, however in doing so they must not go beyond the bounds of whatever authority they have been given by the Head of Paid Service. Ultimately, it is the Head of Paid Service's responsibility to direct the work of officers and

allocate duties to all officers employed by the Council and all individuals contracted by the council.

4. THE RELATIONSHIP: OFFICER SUPPORT: MEMBERS AND PARTY GROUPS

UPDATE AD4.1

It must be recognised by all officers and members that in discharging their duties and responsibilities, officers serve Bristol City Council as a whole and not any political group, combination of groups or any individual member of Bristol City Council. The role of political assistants and the role of the advisor to the Mayor are covered under specific legislation. The operational restrictions upon these roles are specified in the Job Descriptions and Political Assistant protocol.

4.2 It is recognised that members of Bristol City Council may belong to party groups and it is common practice for such groups to give preliminary consideration to matters of Bristol City Council business in advance of such matters being considered by the relevant Bristol City Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups 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.

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

- a. That officers do not engage in political discussion when attending party group meetings, limiting their activities to providing information on the specified business and answering appropriate questions. Officers should only attend these meetings for the length of time necessary to provide briefings and answer questions before withdrawing to allow political discussion to take place.
- b. Party group meetings, whilst they form part of the early stages of Bristol City Council decision making, are not empowered to make decisions on behalf of Bristol City Council. Conclusions reached at such meetings do not form part of the Council's formal decision-making process 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 Bristol City Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Bristol City Council Committee or Sub-Committee when the matter in question is considered.

4.4 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 or officers of the council. Due regard should be paid to the fact that such persons are not bound by the Bristol City Council Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers must be cautious about attending and/or giving advice to such meetings.

4.5 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.

- 4.6 Whilst any member may ask the Head of Paid Service for written factual information about the functions of Bristol City Council, such requests must be reasonable and not seek information relating, for instance, to case work of a confidential nature. Requests will be met subject to any overriding legal considerations (which will be determined by the Monitoring Officer), or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a member requesting such information is dissatisfied by such a response, she/he should raise the matter with the Head of Paid Service who will discuss the issue with the relevant member.
- 4.7 It must not be assumed by any party group or member that any officer is supportive of any policy or strategy developed because of that officer's involvement in its design.. As per the code of conduct officers should not be put under undue pressure to recommend a particular policy or strategy. If officers perceive they are being put in such a position they should contact their direct line manager and the Monitoring Officer who will make an assessment and agree an appropriate course of action.

5. SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS

- 5.1 The only basis on which Bristol City Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport etc.) to members is to assist them in discharging their role as members of Bristol City Council. Such support services must therefore only be used on Bristol City Council business. Council resources should never be used in connection with party political or campaigning activity or for private purposes and this applies to the use of ICT and social media as set out in the [member code of conduct](#).

6. MEMBERS' ACCESS TO INFORMATION AND TO BRISTOL CITY COUNCIL DOCUMENTS

- 6.1 Members have the ability to ask for information in accordance with their legal rights. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in their role as a member of Bristol City Council. This can range from a request for general information about some aspect of Bristol City Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the relevant Service Director. In cases of doubt, members should approach the Monitoring Officer for assistance.
- 6.2 As regards the legal rights of members to inspect Bristol City Council documents, these are covered partly by statute and partly by the common law.
- 6.3 Members have a statutory right to inspect any Bristol City Council document which contains material relating to any activity of Bristol City Council. 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 as a confidential item on the agenda for a meeting as set out in the Constitution:

APR21.1- Material relating to decisions

All councillors will be entitled to inspect any document which:

(a) Is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a public meeting unless either (i) or (ii)

below applies;

(b) Is a decision made by an individual member in accordance with executive arrangements;

(c) Relates to a decision published and made by an officer.

Unless

(i) It contains exempt information falling with paragraphs 1-2, 4-5 and 7 of the categories of exempt information in APR10.4; or

(ii) Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended) to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract; or

(iii) It contains the advice of a political adviser.

Qualifying documents must be made available for inspection immediately after the decision is made.

- 6.4 The common law rights of members remain intact. These are much broader and are based on the principle that any member has a right to inspect Bristol City Council documents so far as his/her access to the document is reasonably necessary to enable the members properly to perform his/her duties as a member of the Bristol City Council. This principle is commonly referred to as the 'need to know' principle.
- 6.5 The exercise of this common law right depends therefore, upon an individual member being able to demonstrate that she/he has the necessary 'need to know'. In this respect a member has no right to 'a roving commission' to go and examine documents of Bristol City Council. Mere curiosity is not sufficient, there must be a 'need to know'. This question of whether there is a 'need to know' must initially be determined by the Head of Paid Service (with advice from the Monitoring Officer). In the event of dispute, the question falls to be determined by the Monitoring Officer in association with the Head of Paid Service.
- 6.6 A Member's 'need to know' will normally be presumed where the information clearly relates to the discharge of a function of Bristol City Council.
- 6.7 Whilst the term 'Bristol City Council document' is very broad and includes for example, any document produced with Bristol City 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.
- 6.8 Further and more detailed advice regarding members' rights to inspect Bristol City Council documents may be obtained from the Monitoring Officer and is set out in the [Constitution](#).
- 6.9 Any Bristol City 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 Bristol City Council. Therefore, for example, early drafts of Committee reports/briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. Any unauthorised disclosure of Council documents will be treated as a breach of the Code of Conduct for Members and may also leave a member at risk of legal action from a third party.

7. CORRESPONDENCE

- 7.1 Correspondence between an individual member and an officer should not normally be copied (by the officer) to any other member without the consent of that member.

- 7.2 Most official letters on behalf of Bristol City Council will normally be sent in the name of the appropriate officer rather in the name of a member, particularly when dealing with operational or service delivery matters. However it will be appropriate in certain circumstances (e.g. representations to Government) for correspondence to be sent in the name of member(s) or the Mayor of Bristol City Council. Letters which create legal obligations or give instructions on behalf of Bristol City Council and which are sent out in the name of a member should always be agreed in consultation with the Head of Paid Service, and on legal matters on advice from the Monitoring Officer.

8. PUBLICITY

- 8.1 Bristol City Council is accountable to the residents of the Bristol area. Accountability requires local understanding, the council therefore has a duty to publicise its services and activity and to explain its objectives and policies to the electors and rate-payers in an accessible manner.
- 8.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity is essential, therefore, to ensure that decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a code of Recommended Practice on Local Authority Publicity:
<https://www.gov.uk/government/publications/recommended-code-of-practice-for-local-authority-publicity>

The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code requires that all local authorities shall have regard to its provisions in coming to any decision on publicity.

- 8.3 Officers and members of Bristol City Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, officers and/or members should initially seek advice from the Head of Corporate Communications and/or the Head of Public Relations, Consultation and Engagement who will refer the matter to the Head of Paid Service as required. Particular care should be paid to any publicity used by Bristol City Council around the time of 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 the pre-election period.
- 8.4 For the sake of clarity the Code does not apply to press releases and publicity that members may arrange and distribute in their individual political capacity rather than through Bristol City Council. Members should refer to the [member code of conduct](#), which sets out the requirements related to publicity and communications. Members should not at any time use Bristol City Council resources for party political purposes nor ask officers to do so.
- 8.5 Further information and guidance specifically about media activity is available in the council's [Media Relations Protocol](#).

9. OFFICER/MEMBER PROTOCOL

- 9.1 This protocol is published on the council's website. Each member must sign to say they have received a copy of the protocol upon being declared in office. The protocol is also covered in member induction for all members.
- 9.2 Questions of interpretation of this Protocol will be determined by the Monitoring Officer in consultation with the Head of Paid Service.
- 9.3 Periodically this protocol may be updated and a new version must be signed by all elected members and records updated

APPENDIX

Appendix Part 5 (C1) provides details of scenarios and how the protocol applies to officers and members