

Draft 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 (including the Directly Elected Mayor) 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 (including the Mayor) and to the authority, and to carry out the authority's work under the direction and control of the Council, its Executive and relevant Committees. Officers are accountable to the Head of Paid Service.

The role of Political Assistants and the advisor to the Mayor are covered under specific legislation.¹

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;

¹ [S.9 Local Government and Housing Act 1989](#)

[Reg.3\(7\) The Local Authorities \(Elected Mayor and Mayor's Assistant\) \(England\) Regulations 2002](#)

[reg.3\(1\)\(c\) of The Local Government Officers \(Political Restrictions\) Regulations 1990](#)

- (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 Mayor, Members of the Executive and Committee Chairs and Vice Chairs have additional powers or responsibilities. As a result, their relationships with Officers may differ from 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 and the Mayor 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 officers² 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) 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,

² 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.

- 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.

Officers can expect from Members:

- (a) 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. Additional guidance can be found at Appendix A.

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.

Reports to Council, Executive or Committee

18. Under the Constitution adopted by the Council to comply with the Local Government Act 2000, decisions may be made by the directly Elected Mayor or Members of the Executive to whom the Mayor has delegated decision-making power. In other cases, they may also be taken by the Full Council or 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 Mayor, Executive (whether collectively or otherwise) or to a committee or sub-committee should be written by the Executive Director or another officer authorised by them. Additional guidance can be found at Appendix A.

Access to Information

19. Members have a right to view Council documents (including both exempt and

confidential material) in accordance with the statutory framework. 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) Executive Members - matters relating to their portfolio;
- (b) Scrutiny Members - matters relating to their terms of reference and committee business;
- (c) Ward Members - matters with particular implications for the ward (i.e. significantly more than for the general city).

20. All Members are also entitled to be briefed on the same basis and within the same constraints as set out above.

21. 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).

22. The Proper Officer [Insert note at foot of page - Full Council appoints an officer to discharge certain statutory functions known as the proper officer for that purpose the relevant proper officer for these purposes in the Director of Legal and Democratic Services. A list of proper officer functions can be found in the constitution here (link)]

23. Members may have access to exempt information in reports. Exempt information is defined in our Constitution in the Access to Information Procedure rules [APR10.3](#).

24. 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.

25. 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;
- (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 Overview and Scrutiny Management Board or relevant Scrutiny Commission before making a final decision;
- (d) Members of the relevant Scrutiny Commission will be given access to the exempt information in the report once the papers are published. In some instances the Proper Officer may decide that

this will be by managed access (i.e. viewing of hard copy documents), but this will only be in exceptional circumstances.

26. 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.
27. Executive Members, individually and collectively, 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.
28. Scrutiny Chairs are entitled to regular and confidential briefings on matters relating to Scrutiny business (as a group, or individually).
29. 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

30. The Council has a duty to publicise its services and activity and to explain its objectives and policies to citizens in an accessible manner.
31. 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.
32. 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.
33. 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.

Scrutiny Function

34. Scrutiny Members determine their programme for scrutinising the implementation of decisions and recommending policy changes to the executive. Reports commissioned and evidence requested will avoid:
 - (a) Duplicating work which is being contemplated or already being undertaken in support of developing executive policies;
 - (b) Incurring unreasonable costs and use of Officer time.
35. Overview and Scrutiny bodies have statutory powers to scrutinise decisions the executive is planning to take, those it plans to implement, and those that have already been taken/implemented. Creating a strong organisational culture that supports scrutiny work that can add value by, for example, improving policy-making and the efficient delivery of public services.
36. Effective Overview and Scrutiny should:
 - (a) Provide constructive 'critical friend' challenge;
 - (b) Amplify the voices and concerns of the public;
 - (c) Be led by independent people who take responsibility for their role;
 - (d) Drive improvement in public services.
37. A Scrutiny Commission does not have the power to require a department to prepare reports for it, but the obligation upon Officers is to make all reasonable efforts to support Scrutiny and requests for information will only be refused in exceptional circumstances. The Head of Paid Service will have the final decision on whether a report will be provided to Scrutiny.
38. Where the Executive and a Scrutiny Commission are considering the same service area, the Executive Member, relevant Scrutiny Commission Chair and Head of Paid Service should agree a joint programme of work and the order in which reports should be consulted upon and presented.

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.

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Additional Guidance Notes

1. Executive Decisions

- 1.1 Executive Members introduce reports at Cabinet. 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 Executive Members 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 Deferring a report is an executive decision and responsibility (within legal constraints). 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) The Political Assistants and the advisor to the Mayor;
 - e) Any other posts that conduct the following activities:
 - 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;
 - 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.