

PART 5 – CODES AND PROTOCOLS

PROTOCOL ON MEMBER/OFFICER RELATIONS

Basic Principles

- 1 The basic principle of good Member/officer relations in local government is trust, mutual respect and a common understanding of respective roles. Councillors are elected to represent the whole community and officers are appointed by the Council to give creative, robust and impartial advice, which will assist Members in reaching the best decisions for that community.
- 2 The Council's Code of Conduct for Members says that they should "show respect and consideration for others" and "must not do anything which compromises, or which is likely to compromise, the impartiality of the Authority's employees".
- 3 The Code of Conduct for Local Government Employees says that "Mutual respect between qualifying employees and Members is essential to good local government, and working relationships should be kept on a professional basis. Qualifying employees of Cardiff Council should deal with the public, Members and other employees sympathetically, efficiently and without bias."

Councillors' Roles

- 4 All councillors have a responsibility to fulfil representational and constituency roles in respect of their electoral divisions. They also have responsibilities as members of the full Council to take some of the most important decisions the Council can make, including approval of the budget and policy framework. Many will be involved in taking other more detailed Council decisions, particularly within the planning and licensing areas, and others will have responsibility for maintaining an overview and scrutiny of Executive Decisions and the efficient performance of Council functions. A relatively small group of councillors will be members of the Cabinet, which will undertake most of the Council's functions.
- 5 All of these roles will relate in slightly different ways to the officers of the Council. These are set out in more detail below.

Officer Roles and Advice

- 6 Council officers are employees of the whole Council and have an obligation to give impartial advice and to carry out the Council's lawful decisions. They have operational responsibilities which are generally set out in the Council's scheme of delegations, or in their job descriptions. These will generally be of a managerial, technical or administrative nature, and are part of the normal day-to-day work of all Council employees.

- 7 The Member Code of Conduct describes how Members should act when taking decisions and in particular in relation to advice from officers:-
- "A member ... must reach decisions having regard to any relevant advice by the authority's officers..."
- 8 In advising, officers are free to give their professional advice wherever appropriate. Councillors may wish to test this advice by questioning and challenging something they do not agree with, but they should not, by their conduct or actions, make employees feel intimidated or threatened. They should ensure that any challenge of advice given is made to an employee of suitable seniority, generally the Chief Executive, Corporate Director or Chief Officer. Employees should remember that councillors are democratically elected to secure their objectives and fully entitled to question advice given, and to receive a full and complete explanation. Employees should always seek to meet the Council's objectives when advising, provided that this can be done legally and within financial resources.
- 9 If Members remain dissatisfied with the advice given, then they may refer the matter to the Leader, the appropriate Cabinet Member or the relevant Committee Chairperson. Where necessary and appropriate, either by agreement with the Chief Executive, relevant Corporate Director or Chief Officer, or following a decision of the Council, professional advice can be commissioned by relevant officers (in consultation with relevant Members) from a reputable and suitably qualified source outside the Council. Any subsequent report to the Council will contain the professional advice of the Chief Executive or officer named as author, but will also contain any external professional view, clearly identified as such.
- 10 This Council operates a system which requires advice on the legality and achievability (including financial matters) of the decision in advance of its consideration, and for that advice to be captured in reports to Members, Cabinet, Committees or the Council. Officers should be permitted to give their complete advice, including a description of any relevant options and advice as to legal and financial probity. When oral advice is given, it should be recorded in writing by the officer concerned.
- 11 The Council has three main statutory officers; the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, who have duties to advise the Council as a corporate body or the Cabinet in relation to Executive Functions, and have a statutory right to advise as they believe appropriate within their statutory duties.

Correspondence with Councillors and others

- 12 The Council has a detailed Protocol setting out how officers should deal with correspondence from councillors and other elected representatives. The Protocol may change from time to time to adjust to differing circumstances, but councillors and officers should refer to it for guidance on this issue. Officers should always try to respond to Members within the Council's target

timescales for response, and if they cannot, should keep the Member informed as to progress. If correspondence is referred by an officer to a Member for response, the Member should also use best endeavours to reply within Council target response times.

Relationships between Officers and Members

- 13 As indicated above, although officers have a duty to serve the Council as a corporate body, their working relationships will be different with different groups of Members. The following paragraphs identify and give guidance on key issues in this area.
- 14 **All Councillors** – all councillors and employees will demonstrate mutual respect and will deal with each other sympathetically, efficiently and without bias. Officers are responsible for advising the whole Council but may occasionally be called upon by individual Members to advise or give information on particular issues that relate to the councillor's representational or constituency roles. This is entirely proper and within available resources, advice will be given. Officers should not advise councillors on their individual positions or to assist them in personal capacities, but only in relation to Council matters. The Monitoring Officer or his/her nominee may advise individual councillors on the Member Code of Conduct and their responsibilities in relation to declaration of interests.

Individual Members may request that advice given to them is treated in confidence. They should make this clear at the start of any discussion or correspondence with the officer concerned. The officer will then advise the Member as to whether the discussion or correspondence can be treated as confidential within the law and within Council procedures, so that both parties have a clear understanding of the position. Information which indicates that the Council may be in breach of a duty, involves the protection of vulnerable people or alleges misconduct, for example, may not be kept confidential, and may be reported to the proper person or authority.

- 15 **Chairpersons and Officers** – the chairperson of the Council and/or chairpersons of committees have particular roles in relation to the business of the Council or committees, and officers will support them in those roles. Generally, and subject to the Council's rules of procedure set out in Part 4, the Chairman/chairperson of any Council body will finalise relevant agendas and the officer with responsibility for issuing the agenda will comply with the Chairman/chairperson's wishes in this respect. However, in certain instances, statutory officers have a right to have items included on relevant agendas, and these and any instructions issued by statutory officers in this respect will be followed.
- 16 **Leader and Cabinet and Officers** – although employees serve the Council as a whole, senior employees will work closely with the Leader and Cabinet Members on policy matters. In particular, they may be asked to brief Members on Council powers, the implementation of policies and available options. This is entirely acceptable, whether done individually or collectively.

The Leader and Cabinet Members recognise that all officers are employees of the full Council and may not be asked by Members to advise in a certain way, or to carry out their duties in a way which does not accord with formal decisions or with the officer's own professional judgement. This is, of course, subject to the requirement that officers must carry out the lawful decisions of the Council and the Cabinet.

- 17 **Party Groups and Officers** – no officer may be compelled to attend a meeting of the Council's political groups and similarly may not insist on doing so. Officers will not attend party group meetings which include individuals other than Council Members or Council officers acting in that capacity. If an officer gives a briefing to any political group represented on the Council, he/she will offer a similar briefing to the other party groups.
- 18 **Co-opted Members and Officers** – the Council has several co-opted members who have a statutory right to vote on issues in certain circumstances. Officers will deal with co-opted members in the same way as they deal with all councillors and will be available to advise them as set out in paragraph 10 above, in respect of their particular statutory functions only.

Conduct and Effectiveness

- 19 If councillors have any concerns about the effectiveness or conduct of particular officers, they will take this up directly and confidentially with the appropriate Corporate Director with responsibility for the officer's service area, or the Chief Executive if there is no appropriate Corporate Director or the issue relates to a Corporate Director, or the Leader if the issue relates to the Chief Executive. The issue will then be handled in accordance with the Council's procedures and the Member and officer concerned will be advised of the outcome, unless there are legal reasons why they may not. Personal criticism (except in pursuance of a legal obligation) by Members of individual officers or identifiable groups of officers will not take place in public forums (including the media) as this could seriously affect the ability of the Council to effectively defend its position as an employer and may in some circumstances render it liable to payment of compensation.
- 20 Similarly, if any officer has concerns about the conduct of a particular Member, he/she will raise it in the first instance with his/her Chief Officer or Corporate Director so that attempts can be made to resolve the issue on an amicable basis. If this is not possible, or the alleged misconduct is of a serious nature, the matter will be reported to the Council's Monitoring Officer, who will then advise on whether it is appropriate for the issue to be referred to the Standards Commissioner for Wales under the Member Code of Conduct. No Council officer will publicly criticise any councillor (except in pursuance of a legal obligation) as this would be a departure from the proper statutory process and may prejudice that process.

Access to Information and Documents

- 21 The Council promotes openness and access to information by all its councillors. However, the law prevents the release of confidential or exempt information in certain circumstances, and both officers and members will abide by the Council's Access to Information Procedure Rules set out in Part 4 of this Constitution. Confidential information or exempt information provided to Councillors must be used properly, and only for the purposes for which it has been released.