



**STANDARDS COMMITTEE
12 April 2010**

**REVIEW OF MEMBER/OFFICER PROTOCOL REGARDING
MEMBER/OFFICER BEHAVIOUR AND RELATIONS**

PURPOSE OF REPORT: The Standards Committee was asked by the Council to review sections of the Member/Officer Protocol relating to Member/Officer behaviour and relations (paragraphs 16 and 17), in the light of other authorities' protocols, to ensure that the Protocol adequately addresses expected behaviours, and recommend any changes to the Council by May 2010.

Introduction:

- 1 A Governance Task Group was established by the Chairman of the Council in July 2009 in response to concerns raised by the Interim Chief Executive and with a remit to consider and make recommendations to the Council on governance issues. The Chairmen of the Audit and Governance Committee and the Standards Committee were co-vice chairmen of the Group. The Group presented its report to the Council at its meeting on 15 December 2009.
- 2 Included in the report was a recommendation that the Standards Committee should look at the wording in paragraphs 16 and 17 of the Member/Officer protocol relating to Member/Officer relations and behaviour, and consider whether this could be made more explicit, particularly in regard to behaviours that were not acceptable . It was suggested that this could be looked at in the light of other authorities' protocols.

Current Member/Officer protocol

- 3 Paragraphs 16 and 17 of the protocol read as follows:

“16 For the effective conduct of County Council business, there must be mutual respect, trust and courtesy between Members and officers. Members and officers should also try to give timely responses to each other's queries.

17 To support a healthy working and constructive working relationship, Members should be aware of how they speak with and

relate to officers, avoiding undue pressure. They should not ask an officer to do anything he/she is not empowered to do or to undertake work outside normal duties or outside normal hours.”

- 4 Paragraph 18 then goes on to clarify the position regarding officers. “Similarly officers should be aware of how they speak with and relate to members and remember at all times that they work in a political environment. Officers must not seek to use undue influence on an individual member to make a decision in his/her favour.”
- 5 Accordingly, the protocol at the present time sets out the general expectation of the need for mutual respect, trust and courtesy to be shown by both Members and officers, and then gives some specific examples of this in relation to both. It is suggested that the Committee need to consider whether the general statement is adequate and also whether the examples given are appropriate and sufficient or whether these need amending, or adding to. The Committee may feel that it is important to consider paragraph 18 as well so as to ensure that they are addressing both the behaviours of Members and officers. These paragraphs deal with the behaviour expected by Members and officers in their working relationships. In the event that a Member wishes to make a complaint about not being shown proper respect or courtesy by an officer or vice versa, the processes for handling this are set out in paragraphs 49 and 50 of the protocol.
- 6 The Committee may decide that it is appropriate in any event to make some reference at this point in the protocol to the relevant provisions of the Codes of Conduct both for Members and staff.
- 7 Relevant paragraphs in the Members’ code of conduct in this regard relate to the requirement to treat others with respect, not to bully or intimidate, and not to compromise the impartiality of officers. The Standards Board has provided some helpful guidance in interpreting these provisions as follows and again the Committee may wish to draw attention to this:

“As regards “treating others with respect” ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers. Chairs of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

As regards bullying this is described as behaviour which attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health. This can be contrasted with the legitimate challenges which a member can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy, or asking officers to explain the rationale for the professional opinions they have put

forward. You are entitled to challenge fellow councillors and officers as to why they hold their views.

It is important that you raise issues about poor performance in the correct way and proper forum. However, if your criticism is a personal attack or of an offensive nature, you are likely to cross the line of what is acceptable behaviour.

As regards the issue of impartiality: you should not approach or pressure anyone who works for, or on behalf of, the authority to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.”

- 8 As regards the Surrey County Council Staff Code of Conduct, the section dealing with “Personal Conduct” indicates that all employees are expected to promote and maintain high standards of personal conduct to sustain the good reputation of the Council and its services.
- 9 Employees must perform their duties to the highest possible standards with honesty integrity and impartiality and to be accountable for their own actions. Specifically in relation to Councillors the code states that mutual respect between employees and councillors is essential to good local government.

Examples from other local authorities’ member/officer protocols

- 10 This report has been produced having researched approximately 20 other Member/officer protocols, mainly from 4 star authorities and including a number of other County Councils. As would be expected there are a number of recurring themes, but the extracts below give a flavour of the range of different approaches and issues raised in these protocols.

10.1 London Borough of Merton:

Members can expect officers to:

- maintain confidentiality;
- perform their duties effectively, efficiently and with political neutrality;
- behave in a professional and courteous manner;
- be helpful to Members and respect their role;
- avoid personal close familiarity with Members and not use their relationship with Members to advance their personal interests or to influence decisions improperly;
- report to their Service Heads any time that a Member asks or pressurises the officer to deal with a matter outside of Council procedure or policy;
- demonstrate an understanding of and support for respective roles, workload and pressures;
- comply with the relevant Codes of Conduct.

Officers can expect from Members:

- political leadership and direction;
- respect, dignity and courtesy;
- an understanding of and support for respective roles, workload and pressures;
- not to be subject to bullying or undue pressure;
- not to use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- compliance with the relevant Codes of Conduct.

10.2 Epsom and Ewell Borough Council

“Members should:

- (i) Be aware of how they speak with and relate to junior officers, avoiding undue pressure;
- (ii) Avoid personal attacks on officers, particularly in publications, press statements or meetings attended by the public;
- (iii) Avoid words or actions which could undermine respect for officers by the public;
- (iv) Never require an officer to carry out work on a matter which is not justified in terms of budgetary controls, Council policy or the officer’s duties and responsibilities
- (v) Never require an officer to carry out work within unreasonable deadlines or work that imposes an excessive workload;

Officers should:

- (vi) Be aware of how they speak with and relate to Members;
- (vii) Remember at all times that they work in a political environment;

Officers can expect from Members:

- political leadership and direction;
- respect, dignity and courtesy;

- an understanding of and support for respective roles, workload and pressures;
- not to be subject to bullying or undue pressure;
- not to use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;
- compliance with the relevant Codes of Conduct.

10.3 Thurrock Council:

Members must not ask officers to breach Council policy or procedures. Officers can only advise Members on Authority issues and business. Members can expect officers to:

- Maintain due confidentiality;
- Perform their duties effectively and efficiently;
- Behave in a professional manner;
- Be helpful and respectful to Members.

Mutual respect between Councillors and officers is essential to good local government. Close personal familiarity between individual Councillors and officers can damage this relationship and prove embarrassing to other Councillors and officers.

It is not enough to avoid actual impropriety. Members should at all times avoid any occasion for suspicion and any appearance of improper conduct. A Member should not seek to influence an officer to reduce the options or withhold information which he/she should properly report to a Committee. Members have the right to criticise reports or the actions taken by officers but they should always:

- avoid physical or personal attacks on or abuse of officers;
- ensure that criticism is constructive and well-founded;
- take up an individual concern with an officer privately where possible;
- respect professional advice.

Members should avoid undermining respect for officers at meetings, or in any public forum. This would be damaging both to effective work relationships and to the public image of the Authority. Discussions and correspondence between Members and officers should at all times be well mannered and professional.

It is not appropriate for Members to:

- treat an officer with contempt or hurl personal abuse at him/her
- physically attack or harass an Officer
- deliberately undermine or persistently unreasonably criticise an officer

10.4 Somerset County Council

Members must respect the political impartiality of officer advice in general. Members must respect the professional independence of officers and must not compromise or attempt to compromise the impartiality of anyone who works for or on behalf of the Council. Members must allow officers to carry out their duties in a neutral, non-biased and nonpartisan way.

A Member may appropriately challenge the advice of an officer (this should usually be done at a senior level) but they must not pressurise the officer to change their advice if, in the opinion of that officer, doing so would prejudice his / her professional integrity.

Members must not give direct instructions to officers or any other person employed by or acting on behalf of the Council and must not require any officer to act in a way that is unlawful or illegal; is in direct contradiction of any code or guidance, is outside of the Council's budget or policy framework, or which would be likely to amount to maladministration.

Members have the right to criticise reports or the actions taken by officers, but they should always:

- avoid personal attacks on officers
- ensure that any criticism is constructive and well-founded
- ensure that such criticism is conveyed in such a way and in such a forum that it is not disrespectful or bullying of the officer.

Members should be particularly careful that that they do not undermine, or are disrespectful or bullying of, officers at meetings or in any public forum (including council offices). This would be damaging, both to effective working relationships and to the public image of the Council. It would also undermine the mutual trust and courtesy that is an essential element of a well run council.

10.5 North Yorkshire County Council

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 Council. 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, their committees and subcommittees.

At the heart of 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 always be courteous and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

10.6 Staffordshire County Council

The relationship between Councillors and Officers should be based on mutual respect and trust. Officers should avoid criticising Councillors, and Councillors should avoid criticising officers, in order to maintain that trust and respect.

In dealings between Councillors and officers neither should seek to take unfair advantage of their position. Councillors should not press employees to do things that they are not empowered to do. Officers must not press Councillors to make a decision in their favour, nor raise personal matters to do with their job, nor make claims or allegations about other employees.

Officer Commitments to Councillors:

- We recognise that we are here to support you to do your job as a County Councillor and will provide you with support and assistance when requested;
- We will show understanding for your respective roles, workloads and pressures;
- We will treat you with respect and deal with you honestly;
- We will not use our relationship with you to advance our personal interests or to influence decisions improperly;
- We will give your queries priority and answer them quickly (within 2 working days);
- We will ensure that local members are informed about our proposals for their division before we announce them publicly;
- If we make a promise to you we will deliver on it on time;
- We will make sure that all communications with you whether formal or informal are clear, concise and in plain English.

Member Commitments to Officers:

- We will provide political leadership and direction;
- We treat you with respect, dignity and courtesy;
- We will show understanding for your respective roles, workloads and pressures;
- We recognise that you must operate with political neutrality and will respect this;
- We will not take unfair advantage of our position as a Councillor;
- We will not subject you to bullying or undue pressure;
- When you give us information in confidence we will respect that confidentiality.

Conclusions:

- 11 The Committee is requested to consider the report and decide whether it wishes to recommend to the Council that it makes any amendments or additions to paragraphs 16-17 (and possibly also paragraph 18) of the

Member/Officer protocol particularly in the light of the protocols of other local authorities examined above.

Financial and value for money implications

12 None

Equalities Implications

13 The Members' Code of Conduct requires Members not to do anything that may cause the Council to breach any of the equality enactments. This would include not treating officers in any way that would be likely to amount to unlawful discrimination. Similarly the Staff Code of Conduct policy requires that employees must ensure compliance with the Council's Equalities Statement. This applies to any contact that officers have with members with a requirement for them to avoid any actions that would be regarded as discriminatory.

Risk Management Implications

14 A lack of clarity in the interpretation of the member/officer protocol may lead to misunderstanding and the need to spend time to sort out any disagreements or conflicts that might needlessly arise.

Implications for the Council's Priorities or Community Strategy/Local Area Agreement Targets

15 None

Recommendations:

The Committee should consider whether it wishes to make any recommendations to the Council regarding changes to the Member/Officer protocol in the light of their consideration of this report.

Next steps:

Any recommendations will need to be reported to the Council and any amendments would then need to be incorporated into a revised version of the Member/Officer protocol.

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Sources/background papers:

Governance Task Group report to Council 15 December 2009 together with Minutes from that Council meeting
Member/Officer Protocol
Members' Code of Conduct

Code of Conduct for Staff
Standards Board Guidance on the Members' Code of Conduct
Member/Officer Protocols of other local authorities