

## **PROTOCOL ON COUNCILLOR/OFFICER RELATIONS**

### **1. INTRODUCTION**

- 1.1. This protocol seeks to provide a set of principles to guide Councillors and officers of the Council in their relationship with one another in such a way as to ensure a harmonious professional relationship with each other working collaboratively in partnership. The relationship is fundamental to the successful working of the Council.
- 1.2. The relationship between Councillors and officers is based on honesty, mutual trust and respect. This protocol is intended to support that relationship by giving guidance on the roles and relationships in order to build a common understanding and set of expectations. The protocol sets out what should happen if difficulties arise and how they can be resolved.
- 1.3. This protocol should be read in conjunction with the Code of Conduct for Councillors, the Officers' Code of Conduct and the Council's Constitution, any guidance issued by the Audit or Governance Committees and/or the Monitoring Officer.
- 1.4. It should be noted that certain employees of the Council, e.g. the Head of the Paid Service (Chief Executive), the Chief Financial Officer (Section 151 Officer) and the Monitoring Officer, have specific statutory responsibilities which are over and above their obligations to the Council and Councillors and which they are under a duty to discharge.
- 1.5. This protocol applies to all officers (employees) and elected and appointed Councillors of the Council (including co-optees).
- 1.6. All Councillors and officers should abide by this protocol.

### **2. GENERAL PRINCIPLES**

- 2.1. It is essential in Local Government that there is mutual respect, trust and courtesy between Councillors and officers.
- 2.2. Undue familiarity between individual Councillors and officers should be avoided as it can:
  - Damage the principle of mutual respect.
  - Give rise to inappropriate behaviour or relationships.
  - Cause embarrassment to Councillors and/or officers.
  - Give rise to suspicions of favouritism/malpractice.
- 2.3. Both Councillors and officers are servants of the public and they depend on each other in carrying out the work of the Authority and are indispensable to one another. However, their roles and responsibilities are different and distinct. Their respective roles are set out below.

- 2.4. Councillors are democratically elected, operate politically and are responsible to the electorate and serve only so long as their term of office lasts. The roles of Councillors are set out in the Constitution including those with special responsibilities. In brief Councillors have five main areas of responsibility. They are responsible for the development of policies and the strategic framework for the Council and giving political leadership, making decisions, acting as an advocate on behalf of their constituents, representing the authority externally, and reviewing and scrutinising the performance of services including holding the Cabinet to account on decisions.
- 2.5. Officers must be politically neutral in their work, their job is to provide impartial, technical, financial, professional and legal advice to Councillors and the Council as a whole and not to any political group or to any individual Councillor and to carry out the Council's work under the direction and control of the Council and the Leader/Cabinet. They are responsible for implementing decisions of the Council, the Cabinet and Committees as well as taking decisions delegated to them. Officers are employed by and ultimately responsible to the Chief Executive as Head of the Paid Service.
- 2.6. Councillors must respect the political impartiality of officers and do nothing to compromise it e.g. by insisting that an officer changes their professional or technical advice.
- 2.7. Councillors should be aware of the collective responsibility of officers of the Council and should not act in a way which may undermine the trust and confidence between officers and Councillors or prejudice the ability of officers to work collectively in the interests of the Council.
- 2.8. Councillor/officer relationships should be co-ordinated in a positive and constructive way. Therefore, it is important that any dealings between Councillors and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position to seek or exert due pressure or influence on the other party.
- 2.9. At all public meetings of the Council, officers will address a member by the office they hold, i.e. Councillor.

### **3. EXPECTATIONS**

- 3.1. What Councillors can expect from officers:
  - Political neutrality.
  - A commitment to act in the interests of the Council as a whole and not to any one political group.
  - Professional, accurate, honest and impartial advice.
  - A professional approach to the working relationship.
  - A timely response to enquiries and complaints.
  - Integrity, mutual support and appropriate confidentiality.
  - Courtesy and respect.
  - Implementation of Council policies and decisions.
  - The operational delivery of services within their responsibility including the management of staff.

- Compliance with the Officers' Code of Conduct.
- Awareness of sensitivity to the political environment.

3.2. What officers can expect from Councillors:

- Political leadership and direction.
- An understanding of the requirements of their roles and an appreciation of compelling calls on their time.
- A constructive working partnership.
- Courtesy and respect.
- Not to be bullied, intimidated, harassed or put under inappropriate pressure.
- Compliance with the Code of Conduct for Councillors.
- Respect for their professional advice.

#### **4. COUNCILLORS' PROCEDURE FOR RESOLVING ISSUES**

- 4.1. All issues relating to the conduct of officers must be dealt with through the normal line management processes and, in the case of serious allegations of misconduct, through the Council's normal disciplinary procedures. Councillors and officers are encouraged to work together to seek and resolve differences by talking to each other about any concerns at the earliest opportunity.
- 4.2. If any Councillor feels that they have reasonable cause to complain about the conduct of an officer, they should put their complaint in writing to the appropriate Head of Service, or if the complaint is about a Head of Service or the Deputy Chief Executive then to that officer's Line Manager (i.e. the Deputy Chief Executive or the Chief Executive).
- 4.3. The decision by a Councillor to complain about an officer should not be taken lightly. It is damaging to Councillor/Officer relations for such complaints to be made, unless they can be fully justified. Therefore, if a Councillor decides to submit a complaint then the complaint must supply factual evidence to support the allegation.
- 4.4. Once such a complaint has been made, the Head of Service, Deputy Chief Executive or Chief Executive as the case may be will be responsible for deciding what action, if any, should be taken in relation to the complaint, and will inform the Councillor of their decision.
- 4.5. If the complaint relates to the conduct of a Head of Service or the Deputy Chief Executive and there is sufficient evidence to warrant consideration by the Employment Panel then the Councillor who made the complaint shall not serve on the Committee, but may be called upon to give evidence to the Committee.
- 4.6. If, following examination of the complaint, the Head of Service, Deputy Chief Executive or Chief Executive finds the complaint to be unfounded and believes it to be inappropriate, vexatious or malicious, then they may refer the matter to the Monitoring Officer who will then consider what action to take following consultation with the Chief Executive and the Leader of the Councillor's political group.

## 5. OFFICERS' PROCEDURE FOR RESOLVING ISSUES

- 5.1. If any officer feels they have reasonable cause to complain about the conduct of a Councillor they should in the first instance draw the matter to the attention of the Head of Service, Deputy Chief Executive or Chief Executive as appropriate, who will take appropriate action either by approaching the individual Councillor and/or Group Leader. If, for any reason, the officer does not wish to raise the matter initially with their Line Manager, they may make a direct approach to the Monitoring Officer.
- 5.2. The Monitoring Officer will address the issue either directly with the Councillor concerned or via their Group Leader as the Monitoring Officer judges most appropriate. If the alleged conduct is sufficiently serious, the Monitoring Officer may advise the officer to submit a Code of Conduct complaint.

## 6. PROVISION OF INFORMATION AND OF OFFICER SUPPORT

- 6.1. **The Mayor:** The Mayor plays an important ambassadorial role for the Council. The Service Level Agreement including the Mayoral Protocol sets out the roles and responsibilities of the Mayor and Deputy Mayor and the staff who support them in Democratic Services. In all other respects the Mayor will be provided with the same support as other Councillors.
- 6.2. **Political Groups:** It must be recognised by all officers and Councillors that in discharging their duties and responsibilities, officers serve the Council as a whole and not any political group or any individual Councillor. The Leader of the Council or the Leader of the Opposition Group may request the Chief Executive, Deputy Chief Executive or Head of Service to prepare a briefing or write a report for consideration by their Group; such requests are to be reasonable and should not seek confidential or personal information. Officers will provide factual information only with the identification of options and the merits and demerits of such for the Council if relevant. If an officer deems the nature of the request to be unreasonable, the request will be referred to the Chief Executive for determination.

Political groups are a recognised part of local authorities. Officers may from time to time be required to attend Group meetings and give information and advice to political groups. Information on this is set out in the Protocol for Officers and Political Groups available for officers on the Council's internal intranet pages. If officers receive a request from a Group for a subject matter briefing, then any briefing offered to or requested by a political group will be notified to and offered to any other political group.

Officers will respect the confidentiality of any political group discussion and will not relay the content of any such discussion to another political group. This should not prevent an officer from providing feedback to other senior officers on a "need to know" basis if considered appropriate and with the consent of the Group Leader.

Officers will not attend and provide information at any political group meeting which includes non-Council members. Any exception to this will be approved in writing by the Head of the Paid Service (Chief Executive).

In relation to Budget proposals:

- a) The Administration shall be entitled to confidential discussions with officers regarding options and proposals. These will remain confidential until determined by the Administration or until published.
- b) The Opposition Group shall be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the Opposition Group or until published.

Where an officer gives advice to a Councillor in confidence, that advice should not be disclosed to any other Councillor unless otherwise agreed. Other information may be confidential because to disclose it would be against the Council's or the public interest. Information may also be confidential because of the circumstances in which it was obtained.

Any Council information provided to a Councillor must only be used by the Councillor for the purposes for which it was provided, that is in connection with the discharge and performance of the Councillor's duties as a Crawley Borough Councillor.

Correspondence between an individual Councillor and an officer should not be copied in by an officer to any other Councillor. In the exceptional circumstance where it is necessary to copy in another Councillor, this should be made clear to the original Councillor.

Official letters on behalf of the Council should be sent out in the name of the appropriate officer, rather than in the name of the Councillor. It may be appropriate in certain limited circumstances (eg representations to a Government Minister) for a letter to appear in the name of the Leader or Cabinet Member, but this should be the exception rather than the norm.

- 6.3. **The Cabinet, Chairs and Vice Chairs:** It is clearly important that there should be a close working relationship between Cabinet Members, Chairs and Vice Chairs of a Committee and Heads of Service and senior officers who support and interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other Councillors and other political groups.

All Cabinet Members will routinely be consulted as part of the process of drawing up proposals for consideration at forthcoming meetings of the Cabinet. It must be recognised in some situations an officer will be under a professional duty to submit a report. Similarly, as Head of Paid Service, the Chief Executive or Deputy Chief Executive will always be fully responsible for the content of any report submitted in their name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report.

Chairs and Vice Chairs of Committees will also be briefed on matters relevant to the terms of reference of the Committee.

- 6.4. **Officer Support to the Overview and Scrutiny Commission (OSC) and its Panels:** Support will be provided to OSC Members by Democratic Services who will support the planning of agendas and the Forward Programme of the OSC. Officer support to the Member-led scrutiny function will be provided as required, e.g. to scrutiny panels. As part of their overview and scrutiny work and in accordance with the Constitution, the

Head of the Paid Service, Deputy Chief Executive or Heads of Service may be invited to attend these meetings to answer questions and provide information.

- 6.5. **Ward Councillors:** All Councillors are first and foremost representatives of their local community, and officers should assist Councillors in fulfilling this role. Officers should keep Councillors up to date with developments relevant to their role as a Ward Councillor. This should include public consultations and proposed changes to service delivery affecting their wards.

When a meeting is arranged by the Council in a ward to discuss a ward issue, then all Councillors representing that ward will be invited as a matter of course. Similarly, whenever the Council undertakes any form of consultative exercise or arranges publicity events on a local issue the Ward Councillors should be notified at the outset of the exercise. When an opening ceremony or photo opportunity is being held in an individual ward to mark the opening or installation of a new or upgraded facility or service provision, all Councillors representing that ward will be invited to attend and take part in the event.

## **7. COUNCILLOR ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

- 7.1. Councillors are free to approach officers of the Council to provide Councillors with information and advice as they may reasonably need in order to assist them in discharging their role as a Councillor. This can range from general information about some aspect of the Council's activities, to a request for specific information on behalf of a constituent. Officers should endeavour to respond to requests for information promptly.
- 7.2. The legal rights of Councillors to inspect Council documents is set out in legislation and in common law.
- 7.3. The starting point is that Councillors have the same rights as members of the public in respect of public papers, this includes copies of any published information held by the Council and which forms part of the business of the Council, in particular documents relating to meetings of the Council including reports, agendas and minutes of Committees.
- 7.4. Councillors have additional legal rights to access information held by the Council which would not normally be made public. They are given these extra rights of access in order to enable them to undertake their role as Councillors. This is under common law principles. Councillors are entitled to such information as they may reasonably need in order to assist them in discharging their role as a Councillor. This is known as the "Need to Know" principle. In this respect a Councillor has no right to a "roving commission". Councillors must demonstrate the need to know to the Chief Executive, Deputy Chief Executive or Head of Service, and in any case of dispute the matter should be referred to the Monitoring Officer. This excludes documents or papers or information that contain confidential or exempt information.
- 7.5. Councillors will be provided with copies of all exempt reports irrespective of whether they are a member of the Cabinet, Cabinet Committees, Committees, Sub Committees or the Overview and Scrutiny Commission.

- 7.6. Councillors have the same rights as any other member of the public to request information under the Freedom of Information Act.
- 7.7. The Code of Conduct for Councillors also addresses the following:
- A Councillor must not disclose information given to them in confidence by anyone, or information acquired which they believe is of a confidential nature, without the consent of the person authorised to give it, or unless they are required by law to do so.
  - A Councillor must not prevent another person from gaining access to information to which that person is entitled by law.

## **8. PUBLICITY AND THE MEDIA**

- 8.1. Press releases will be issued by the Communications Team. All communications work undertaken will be non-party political and will comply with the Code of Recommended Practice on local authority publicity.
- 8.2. Official contact with the media (including radio and TV) on Council business will be handled by the Communications Team. Where appropriate, the Communications Team will contact the appropriate Cabinet Member, Committee Chair, Chief Executive, Deputy Chief Executive or Head of Service, whenever possible, to provide a timely response.
- 8.3. Cabinet Members are encouraged to liaise with the Communications Team over media enquiries to ensure a co-ordinated and positive profile for Council activities.
- 8.4. Councillor quotes in press releases will normally be restricted to Cabinet Members and the Mayor. These will be cleared with the appropriate Councillor. Press releases on major or controversial issues will be cleared with the appropriate Cabinet Member and the Chief Executive or Deputy Chief Executive. Ultimate approval of press releases rests with the Leader of the Council.
- 8.5. In appropriate cases, press releases will be issued or press briefings held in advance of Cabinet, Scrutiny and Full Council meetings to highlight key developments, initiatives and proposed decisions. The appropriate Cabinet Member (and Chief Executive or Deputy Chief Executive) will, wherever possible, be present.
- 8.6. Where a journalist wishes to find out what was said by individual Councillors during a meeting, the reporter will be referred to the Councillor direct. It is the prerogative of individual Councillors to make their own statements relating to the issues in their ward.

## **9. PUBLICITY**

- 9.1. In determining publicity arrangements, officers should, at all times, have regard to the Ministry of Housing, Communities and Local Government's Code of Recommended Practice on local authority publicity. Particular care should be taken when publicity is issued immediately prior to an election or by-election affecting the authority's area to ensure that this could not be perceived as seeking to influence public opinion, or to promote the public image of a particular candidate, or group of candidates. During the Pre-Election Period (period of heightened sensitivity) which takes place between the

time of publication of a notice of an election and polling day (Purdah), publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual Councillors or groups of Councillors.

- 9.2. All press releases, including comments, during the Pre-Election Period (period of heightened sensitivity), will be from a Council spokesperson.