

Part 5
Section 2

**Member Officer Relations
Protocol – Draft New Version
November 2020**

Member Officer Relations Protocol

A guide to how officers and elected members should behave towards each other for the effective delivery of Council business and to ensure they uphold principles of mutual respect and trust to meet the interests of the Council and those it serves.

Good Working Relationships - Mutual Respect and Trust

1. For the effective conduct of County Council business there must be mutual respect, trust and courtesy between members and officers. Officers and members must work together constructively in accordance with the values the Council promotes as essential for a culture of mutual respect.
2. Members and officers should at all times:
 - Treat others with respect and dignity
 - Promote equality and diversity by not discriminating against any person
 - Avoid any language or behaviour which is likely to cause offence or be seen as bullying, harassing or intimidating
 - Avoid any conduct which could bring the County Council into disrepute
 - Avoid using any role or position unfairly.
3. Members must respect the impartiality of officers and do nothing to compromise it, e.g. by asking that an officer change their professional or technical advice. Officers should understand and respect the rights and responsibilities members have as elected representatives of their community and be shown respect and support in carrying out their role.
4. Members should be aware of the collective responsibility of the officers of the County Council and should not act in any way which may undermine the trust and confidence between officers and members or prejudice the ability of officers to work collectively in the interests of the County Council.
5. Members and officers should try to give timely responses to each other's queries and show courtesy in communications.

What members can expect - information and advice – giving instructions

6. Members have the right to see information and other material held by the County Council which is relevant to the business of the County Council, depending upon the role of the member and the relevance of the material to the member's responsibilities or division. Members have a right of direct contact with officers to obtain information or advice to assist the proper discharge of their responsibilities. A summary of the rights to information is attached in the Appendix.
7. Members should always have regard to any advice from officers that any decision or proposed action may be unlawful, financially improper or contrary to the interests or values of the Council. An officer should give clear reasons for any such advice. Members have an obligation under their Code of Conduct to have regard, when reaching decisions, to any advice provided by

the Monitoring Officer (the Director of Law and Assurance) or the Chief Financial Officer (the Director of Finance and Support Services).

8. Members should not instruct officers other than:

- when formally discharging a responsibility set out in the Constitution
- through the formal decision-making or committee process
- where officers have been specifically allocated to give support

Members should not attempt to manage or control operational matters or the line management of any officer. If an issue arises the member should raise it with the relevant senior officer in the service.

9. A member should not apply pressure on an officer either to do anything that they are not empowered to do or to undertake work outside normal duties or normal working hours, or to make inappropriate use of Council property or services. If an officer is at any time in any doubt about the propriety of any request made they should seek advice from their line manager.
10. Members may not initiate or certify financial transactions or enter into a contract in writing or orally on behalf of the County Council or direct any officer to do so. Members should not give any assurances to any person outside the County Council or make any public statement which may be interpreted as making a formal commitment on any matter where a formal decision has yet to be made.

The responsibilities of officers towards members

11. Officers manage and provide the County Council's services and take decisions in accordance with the framework of responsibilities delegated to them. This includes the management of employees, resources and operational matters.
12. Officers have a duty to implement decisions of the County Council, the Cabinet and committees which have been properly approved in accordance with the Constitution. Officers should assist and advise all members but have no duty to support members in any role other than that of member
13. Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
14. Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications of any matter for members of the County Council and the community they serve, or of interest to the media. Officers must be prepared to advise and support a member who needs to be briefed or informed about any matter to assist in the member's communication with residents or the media, provided the advice is technical or factual.
15. Officers should not seek to influence any member to make a decision in their favour or raise personal matters to do with their job. The County Council has procedures to enable any officer to raise a matter of personal concern

through various routes including the whistleblowing policy if the matter needs to be raised in confidence.

16. Senior officers should have or should put in place arrangements for contact by members with more junior officers to allow effective communication on specific or general matters. Senior officers should ensure that all officer colleagues staff are aware of such expectations and arrangements.

Cabinet Members and Officers

17. Cabinet Members must take decisions in accordance with the Constitution and will not otherwise direct officers. Senior officers will take guidance from cabinet members on the direction to take on a particular issue, but senior officers, rather than members are responsible for instructing junior officers.
18. Senior officers taking decisions under their delegated powers should inform the relevant cabinet member of their intentions in advance when the matter to which the decision relates is likely to be sensitive or contentious. Officers may decide not to exercise their delegated powers and ask the cabinet member to make a formal decision in such circumstances.
19. In formulating recommendations, officers should help members achieve their objectives, consistent with their technical or professional advice. In difficult or sensitive cases officers will ensure that full discussion with cabinet members has taken place before recommendations are finalised. Cabinet members will advise officers what will or will not be supported but will not direct officers in the framing of recommendations and should always give reasons for not accepting the recommendations of officers.
20. A cabinet member intending to make a decision about a matter in his or her portfolio should ensure that other members and senior officers who need to know of the matter are informed, particularly on issues of joint responsibility or mutual interest, and in appropriate cases to brief the whole Cabinet.

Committee Members and Officers

21. Chairmen and vice-chairmen of committees shall maintain regular contact with the officer(s) providing the principal support to their committee both in Democratic Services and in relevant service directorates. In consultation with chairmen, those officers must ensure that those who need to know of matters being considered or planned for future consideration are so informed and help with briefings and advice in preparation for committee meetings.
22. A committee, or its chairman acting on its behalf, may require officers to attend meetings. Members should not normally expect junior officers to attend unless agreed by the relevant senior officer. All requests should be made to senior officers in the first instance. When making requests for officer attendance or for advice or briefings, committee members shall have

regard to the workload and commitments of officers and other calls on their time.

23. Officers should be prepared to explain to a committee any decision they have taken under delegated powers or any other actions taken or yet to be taken in relation to business before the committee.
24. In giving advice to the committee, officers should not be asked to give political views, and should not make comments upon the line taken by Cabinet or a cabinet member or other decision maker unless giving legal, technical or other professional advice about the matter.
25. Members should not question officers or behave in any way which could be reasonably be interpreted as harassment or disrespectful. Members should not question the capability or competence of officers at meetings. Committee members, in reviewing the policies and performance of the County Council and its services, shall not appraise the personal performance of officers.
26. Members of a committee may only take decisions within the remit of that committee and should not otherwise instruct officers to act. A resolution may be passed at a committee which authorises a named officer to take action between meetings in consultation with the chairman. In these circumstances it is the officer, not the chairman, who takes the action and is responsible for it. A chairman has no power to take decisions on behalf of a committee or panel.

Keeping members informed on local issues

27. To enable them to carry out their local representation role effectively, members need to be fully informed about matters affecting their electoral division before others and always before the County Council makes public announcements. Senior officers must ensure that all officers are aware of the requirement to keep local members informed. Members are in many cases the first point of contact, especially if local people, stakeholders or other community groups are concerned about an issue or need to know what is going on or want a problem dealt with.
28. This requirement is particularly important in the following cases:

Changes to services provided directly or indirectly such as:

- changes to opening hours/admission arrangements
- changes to the type of service provided
- introduction of or changes to fees and charges
- closures, partial, temporary or permanent
- highways works
- changes to 'catchment' areas/service areas
- changes to financial support or assistance to a local group or business
- communications with parish, town, district or borough councils

Where the County Council is taking decisions on:

- planning applications
- traffic management

Controversial issues such as:

- planning applications or advice to such applications

- where a local campaign is developing
 - a response to press or media enquiry about a local issue
 - where the local MP has become involved
 - formal complaints about County Council services locally
 - concerns about the performance of a County Council service locally, especially where externally assessed
29. A member may reasonably request sight of any communication by or with the Council on a matter of local interest, provided this is not personal information which may breach data protection principles. Correspondence with other councils or MPs should be made available as should any internal communications about the matter. If a member has a reasonable interest in the progress of any matter the officer involved should keep the member informed about or copied into correspondence.
30. Whenever a public meeting is organised by the County Council to consider a local issue, all the members representing the divisions affected should be invited to attend the meeting as a matter of course. Invitations to other events, such as opening ceremonies shall be in accordance with the protocol for such events.
31. If a local member intends to arrange a public or other meeting about council business, he or she should inform the relevant senior officer. Provided the meeting has not been arranged on a party political basis and the subject matter concerns some aspect of the County Council's work:
- an officer may attend but is not obliged to do so; and
 - the meeting may be held in County Council premises.
32. No such meetings should be arranged or held in the immediate run-up to County Council or other elections. Officers and members should be familiar with guidance on meetings and publicity at such times.
33. While support for members' divisional work is legitimate, care should be taken if staff are asked to accompany members to ward surgeries. In such circumstances:
- the surgeries must be open to the general public; and
 - officers should not be requested to accompany members to surgeries held in the offices or premises of political parties.

Political Groups and political matters - role of officers

34. Officers should never be asked to attend and should not attend division or constituency political party meetings.
35. It is acknowledged that some County Council staff (e.g. those providing dedicated support to Cabinet Members) may receive and handle messages for members on topics unrelated to the business of the County Council. Support should be given to assist diary management but care should be

taken to avoid officers or other resources being used for private or party political purposes.

36. Most elected members belong to political groups and will wish to be able to receive advice in confidence, without the presence of members of other political groups. Senior officers may properly be asked to advise group discussions on matters concerning County Council business.
37. Officers have the right to refuse such requests and should not attend a meeting of a political group where some of those attending are not members of the County Council. An officer accepting an invitation to the meeting of one political group shall not decline an invitation to advise another group about the same matter. The duration of an officer's attendance at a political group meeting will be at the discretion of the group, but an officer may leave at any time if he or she feels it is no longer appropriate to be there
38. Officer advice will not extend beyond providing factual information or professional advice in relation to matters of County Council business. Officers must not be involved in advising on matters of party business, and therefore should not be present at meetings or parts of meetings when such matters are to be discussed. Examples of cases where officers may be legitimately asked to attend a group meeting are:
 - on significant policy changes or proposals by the government or the County Council or the implications of new legislation;
 - matters affecting the County Council's budget or budget plans
 - where technical advice previously given needs to be explained
 - to give procedural or technical advice on a matter scheduled for consideration at a meeting of the County Council.
39. Political group meetings are not empowered to make decisions on behalf of the County Council, and conclusions reached at such meetings do not amount to formal decisions. The presence of an officer confers no formal status on such meetings. Members should take care to ensure that they do not convey the impression at group meetings that minds have been made up or that final decisions have been taken on council business.
40. Where officers provide factual information and advice to a political group in relation to a matter of County Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the County Council.
41. Officers will respect the confidentiality of any political group discussions at which they are present and, unless requested to do so by the group, will not relay the content of such discussions to another political group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.
42. Members must not do anything which compromises or is likely to compromise any officer's impartiality. An officer should be given the

opportunity of verifying comments and advice attributed to them in any written record of a political group meeting.

43. Members should not refer in public or at meetings of the County Council to advice or information given by officers to a political group meeting.
44. At political group meetings where some of those present are not members of the County Council, care must be taken not to divulge confidential information relating to County Council business. Such persons are not bound by the members' Code of Conduct. They do not have the same rights to County Council information as do such members.
45. Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Director of Law and Assurance and the relevant group leader.

Familiarity and Personal Relationships

46. Informal and collaborative working between members and officers is to be encouraged. Close personal familiarity between individual members and officers can damage the principle of mutual respect. Familiarity could cause embarrassment to other members and/or other officers and give rise to suspicions of favouritism or conflicts of interest and must be avoided.
47. It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Members should advise their group leader of such relationships. Officers should advise their line manager of such relationships. Where a close personal relationship exists, those concerned should avoid a situation where any conflict of interests or impropriety could be perceived. Specifically, a member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.

Dealing with problems or issues between officers and members

48. If any member feels that they have not been treated with due respect and courtesy by an officer or that an officer has acted not in accordance with this protocol, they may raise the matter with the individual's line manager, head of service, director, executive director or the Chief Executive as appropriate. The Director of Law and Assurance can be asked by the officer or member to advise on the rights responsibilities and expectations referred to in this protocol.
49. It is preferable however for the member first to raise their concern direct with the officer concerned, to explain their position and to seek to resolve the issue informally. A referral to a more senior officer should also lead to an informal resolution wherever possible. Such problems should not be raised as formal complaints and escalated unnecessarily. Any more formal actions will be processed within the relevant employment procedures. The member and

the officer will be kept informed of progress with the complaint and the action to be taken. Members do not have any power to discipline any officer.

50. Where any officers feel that a member has acted in breach of this Protocol, or has otherwise not been shown due respect and courtesy by any member, they should raise the matter with their line manager, head of service, director, executive director or the Chief Executive or Director of Law and Assurance as appropriate.
51. The officer should however, in the first instance, discuss the matter with the member concerned and seek to resolve the problem informally. The officer can ask their line manager or other senior officer to assist with any informal resolution. If this is not successful the senior officer consulted will take appropriate action either by approaching the Chief Executive or Director of Law and Assurance or, if appropriate, the member's Group Leader – again with a view to resolve the issue informally. The member concerned should be informed of any such referral or complaint and should be advised of any recommended action resulting. If it is felt that the member Code of Conduct may have been breached then the procedures relating to the Code should be used.
52. In any action to seek to resolve any dispute or matter of concern between an officer and a member they should continue to treat each other with respect and dignity and any action shall be taken fairly and with the full involvement of the officer and the member concerned.

Members' Rights to Information

All members have a right of access to all material in the possession of the County Council if it is established that access is required on a 'need to know' basis - meaning that, in order to discharge any specific responsibility or role of a member it is necessary to have access to a particular document or piece of information and that (in the case of draft or incomplete documents) this need cannot await the planned later publication or availability.

All members will have specific rights to information which forms part of the business of the County Council and, in particular, documents relating to meetings of the County Council including reports, agendas and minutes of committees and other meetings and in accordance with the timescales prescribed and subject to exceptions which relate to confidential information or material which is covered by a statutory exemption or commercial sensitivity of a third party. Members may be supplied with such documents on condition of maintaining confidentiality where this does not give rise to a breach of personal data principles or contractual duty.

Members have the right of access to any document relating to the business of a public meeting and also the business of any private meeting, subject to the same exemptions as above and only in the case of a private meeting once it has ended.

Members of a committee have the right of access to any documents relating to the business of that committee, whether discussed at a public or private meeting and will also be able to see documents covered by exemptions or rules of confidentiality provided the material is the subject of the committee's work programme.

The list of exempt information is detailed in the Constitution (Standing Order 4.28) and guidance on decision-making. The list takes account of the presumption of a right of public access to all material set out in the Freedom of Information Act 2000, but this is subject to specific exemptions concerning personal data (confidential to any individual person) or commercially sensitive or confidential information or any information whose disclosure may prejudice legal or similar enforcement procedures or, exceptionally, prejudice the conduct of the County Council's proceedings.

The law on data protection allows personal data to be disclosed to elected members without having to obtain the consent of the data subject, where disclosure is necessary for the member to carry out their official duties. As a major part of a member's role is to represent the interests of the local community and individuals, there should be no reason why members should not have access to some personal information held by the County Council but there will be restrictions on what they can do with it. If in doubt, you should contact Legal Services for advice.

Members are required by the Code of Conduct not to breach confidentiality. Therefore, the fact that an issue is confidential does not in itself prevent the sharing of it with the local member, but the confidentiality and need to avoid further distribution must be made clear to the member.

Exceptions:

- Where the issue is about the provision of a service to the individual or a dependent, unless the individual or person in receipt of the service has expressly asked for the involvement of the local member and has agreed that personal information can be shared, or where the information is already public, in the press or media;
- Where it involves the personal circumstances of a member of staff;
- Politically sensitive issues such as communication with Members of Parliament, the Government, Local Government Association etc. on provisional or early draft proposals; and
- Matters under early discussion with Cabinet Members.