

# CARLISLE CITY COUNCIL

Report to:- Carlisle City Council

Date of Meeting:- 6 March 2007

Agenda Item No:-

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Public

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Title:- **PROTOCOL FOR RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS**

Report of:- **DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES**

Report reference:- **LDS.25/07**

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## Summary:-

The attached Report setting out the Draft Protocol governing the relationship between Members and Officers has been considered at meetings of the Corporate Resources Overview and Scrutiny Committee, the Standards Committee and the Executive. The report has been recommended to the City Council for adoption as part of the Authority's Constitution subject to the following amendment :

Paragraph 70 regarding the conflict of interest of Officers who are required to appear before an Overview and Scrutiny Committee having also advised the Executive or another part of the Council on the matter under investigation – note in the Protocol that, whilst this was a conflict of interest it was not a personal interest.

## Recommendation:-

It was recommended that the Protocol for Relationships between Members and Officers as attached to this report be adopted by the City Council as part of the Authority's Constitution, subject to the amendment to paragraph 70 as set out above.

**Contact Officer:** John Egan

**Ext:** 7004

22 February 2007

**Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None**

## **1. BACKGROUND INFORMATION AND OPTIONS**

## **2. CONSULTATION**

2.1 Consultation to Date.

2.2 Consultation proposed.

## **3. RECOMMENDATIONS**

## **4. REASONS FOR RECOMMENDATIONS**

## **5. IMPLICATIONS**

- Staffing/Resources –
- Financial –
- Legal –
- Corporate –
- Risk Management –
- Equality Issues –
- Environmental –
- Crime and Disorder –
- Impact on Customers –



# REPORT TO EXECUTIVE

## PORTFOLIO AREA: LEARNING AND DEVELOPMENT

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Date of Meeting: 22 January 2007

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Public

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Key Decision: No

Recorded in Forward Plan: No

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Inside Policy Framework

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**Title: PROTOCOL FOR RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS**

**Report of: DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES**

**Report reference: LDS.08/07**

### Summary:

The report presents to the Executive a draft Protocol governing the relationships between Members and Officers, which has now been the subject of a consultative process including the Corporate Resources Overview and Scrutiny Committee, the Standards Committee and the Corporate Joint Consultative meeting. The Executive are requested to consider the various responses and recommend the draft Protocol to full Council for adoption as part of the Authority's Constitution.

### Recommendations:

The Executive are asked to consider the Protocol and the comments made during the consultative process, particularly those outlined at 1.2, and if satisfied recommend the Protocol to full Council for the adoption as part of the Authority's Constitution.

Contact Officer: Mr J M Egan

Ext: 7004

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None

## **1. BACKGROUND INFORMATION AND OPTIONS**

1.1 The following documents are attached to this report as background:

- (a) Report LDS.74/06, which contains the draft Protocol for relationships between Members and Officers. The Report was considered by the Executive on 23 October 2006 and approved as the basis for consultation with Corporate Resources Overview and Scrutiny Committee and the internal staff consultation process.
- (b) Excerpt from the minutes of the Carlisle City Council/Trades Union Corporate Joint Consultative meeting on 18 October 2006. During that meeting the Unions had stated that they were comfortable with the draft of the Protocol.
- (c) Excerpt from the minutes of the Standards Committee on 4 December 2006. That Committee welcomed the Protocol and referred their views to the Executive for consideration.
- (d) Excerpt from the minutes of the Corporate Resources Overview and Scrutiny Committee on 7 December 2006. That Committee accepted the Protocol as written.

1.2 After the consultation process, the only suggested amendments to the Protocol were from the Standards Committee and were as follows:

- Paragraph 70 regarding the Conflict of Interest of Officers who are required to appear before an Overview and Scrutiny Committee having also advised the Executive or another part of the Council on the matter under investigation. It may be appropriate to note in the Protocol that, whilst this was a conflict of interest it was not a personal interest;
- Paragraph 72 – “Officers must also be prepared to justify decisions they have taken under delegated powers” - replace the word “justify” with “explain”.

## **2. RECOMMENDATIONS**

The Executive are asked to consider the Protocol and the comments made during the consultative process, particularly those outlined at 1.2, and if satisfied recommend the Protocol to full Council for the adoption as part of the Authority's Constitution.

## **3. REASONS FOR RECOMMENDATIONS**

To enable the Council to carry out a revision of its existing Protocol for Relationships between Members and Officers and bring it up to best practice standards, having properly taken into account the views of the relevant Overview and Scrutiny Committee and the employees' representatives, together with the views of the Standards Committee.

#### **4. IMPLICATIONS**

- Staffing/Resources – set out in attached Report LDS.74/06 (Appendix A).
- Financial – set out in attached Report LDS.74/06 (Appendix A).
- Legal – set out in attached Report LDS.74/06 (Appendix A).
- Corporate – set out in attached Report LDS.74/06 (Appendix A).
- Risk Management – set out in attached Report LDS.74/06 (Appendix A).
- Equality Issues – set out in attached Report LDS.74/06 (Appendix A).
- Environmental – set out in attached Report LDS.74/06 (Appendix A).
- Crime and Disorder – set out in attached Report LDS.74/06 (Appendix A).
- Impact on Customers – set out in attached Report LDS.74/06 (Appendix A).



# REPORT TO EXECUTIVE

## PORTFOLIO AREA: LEARNING AND DEVELOPMENT

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Date of Meeting: 23 October 2006

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Public

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Key Decision: No

Recorded in Forward Plan: No

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Inside Policy Framework

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**Title: PROTOCOL FOR RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS**

**Report of: DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES**

**Report reference: LDS.74/06**

### Summary:

The report presents to the Executive for consideration a draft Protocol governing the relationships between Members and Officers in order to commence the necessary consultative processes to enable the Protocol to be recommended to full Council for adoption as part of the Authority's Constitution.

### Recommendations:

The Executive are asked to consider the draft Protocol and, if satisfied with it, to refer it to the relevant Overview and Scrutiny Committee and through the appropriate staff consultative machinery seeking the views of those two bodies, with a view to the Executive then being in a position to make appropriate recommendations to full Council for the adoption of the Code in due course.

**Contact Officer:** Mr J M Egan

**Ext:** 7004

**Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None**

## 1. BACKGROUND INFORMATION AND OPTIONS

- 1.1 Members will be aware that the Council currently has, as part of its Constitution, a number of Codes and Protocols dealing with matters relating to probity and the relationship of Members and Officers with both external parties and also with each other. The principal Codes which currently form the bedrock of the authority's probity regime are the Members' Code of Conduct, the Protocols governing the conduct of members of the Development Control Committee and regulating the use of IT provided by the Council, and the Protocol dealing with Member/Officer relationships. Although not yet in place, it is expected that a statutory Code of Conduct governing the conduct of Officers will soon be enacted by Parliament to which the Officer corps of the authority will be bound.
- 1.2 This report deals specifically with the existing Protocol governing the relationship between Members and Officers. As mentioned above, the authority does currently have such a Protocol in place as part of its constitutional settlement. The Protocol is voluntary (unlike the statutory Members' Code of Conduct) and is not intended to supersede in any way the mandatory Members' Code which, legally, it would be unable to do in any event. The purpose of the Protocol is to act as an operational point of reference and assistance dealing with both the broader aspects of how the Member and Officer roles are intended to sit under current constitutional arrangements, and also to provide specific guidance as to what should be regarded as best practice in the day to day working environment of the Council. It is a statement of "how we do things round here" and is intended to provide some lubrication to the administrative and decision making machinery which constitute a modern local authority, so that Members and Officers alike are aware of what the Council expects from each of them. Although not mandatory, the adoption of such a Protocol is generally considered to be what is expected in a forward looking authority seeking to adopt best practice in its governance arrangements.
- 1.3 Although we currently have a Protocol in place, it is in need of revision and updating because :
- It has been in place since 2002 when the Council's new constitution was first adopted and the changes in local government administrative best practice since then necessitate a redraft in certain areas.
  - Operating experience over the last few years has pointed to areas where the Protocol could usefully be clarified for the benefit of both Members and Officers.
  - As far as possible, the Protocol should be built to address the authority's own specific circumstances and operating experience, with proper input from, particularly, Members and also Officers so that they can both have the necessary connectivity with its basic principles and objectives. The present Protocol did not have such an input but it is intended that this draft will have (and indeed has already had) contributions from Members and Officers prior to its adoption.

- 1.4 There is attached, therefore, a copy of a revised draft Protocol for Members consideration as a first step in commencing the usual consultative procedures with the relevant Overview and Scrutiny Committee and other interested stakeholders (in this case the authority's own staff) so that it can ultimately be recommended to Council for adoption as part of the authority's constitution. The draft Protocol attached has been drafted with reference to Best Practice models elsewhere, but tailored where necessary to address the Council's own local position. The drafting process has been assisted by the fact that the formulation of the Protocol was promoted by the IDeA as part of a broader study initiative which they were sponsoring, aimed at improving generally the awareness of both Members and Officers of their respective roles in the local democratic process. Members may recall a seminar held at Tullie House on the 24 July last which was attended by both Members and Officers and which examined the detailed provisions of the draft Protocol. The Council was commended by the IdeA in one of their publications for the work which the authority had done to date in this area and so the draft, as it stands, comes with that particular support.
- 1.5 It is not intended to rehearse in this report the detailed provisions of the draft. They are, hopefully, written so as to be immediately self explanatory in their own right without further commentary. Suffice to say that they are intended to cover all aspects of the working relationships between Members and Officers, recognising both their respective but distinct roles and responsibilities and the reality of the political nature of the local authority in which they both serve.

## **2. CONSULTATION**

### **2.1 Consultation to Date.**

The Protocol has been the subject of consultation already at Member and Officer level through the seminar sponsored by the IdeA in July last. It has also been reported on to the Members Learning and Development Group in order to make them aware of the adoption process which it is intended to follow in respect of the draft and they are supportive of this.

### **2.2 Consultation proposed.**

Subject to the Executive being satisfied with the attached draft, it is proposed to refer the document to the relevant Overview and Scrutiny Committee (probably Corporate Resources) as required under the Council's Budget and Policy Framework Rules to enable the draft ultimately to be recommended to full Council for adoption. It is also intended to refer the draft Protocol through the Council's internal staff consultative machinery so that relevant comments from the Council's employees are taken into account as part of the adoption process.

2.3 The Members Learning and Development Group and SMT have recognised that the process by which the Protocol is adopted by Council will be critical in ensuring that it accrues the benefits from employing best practice in this area. The IDeA have commended the Council's approach hitherto and the Members Learning and Development Group are keen for this to be continued throughout the process of consultation.

### **3. RECOMMENDATIONS**

The Executive are asked to consider the draft Protocol and, if satisfied with it, to refer it to the relevant Overview and Scrutiny Committee and through the appropriate staff consultative machinery seeking the views of those two bodies, with a view to the Executive then being in a position to make appropriate recommendations to full Council for the adoption of the Code in due course.

### **4. REASONS FOR RECOMMENDATIONS**

To enable the Council to carry out a revision of its existing Protocol for Relationships between Members and Officers and bring it up to best practice standards, having properly taken into account the views of the relevant Overview and Scrutiny Committee and the employees' representatives.

### **5. IMPLICATIONS**

- Staffing/Resources – There will be input required from the Director of Legal and Democratic Services in terms of presenting the Protocol to the appropriate bodies whose views are being sought. It is not believed that the ultimate adoption of the Protocol will involve any additional staffing resource, other than the necessity of a greater awareness of the principles and objectives set out in the Protocol by both Members and Officers and the requirement for each to observe the Protocol in the work which they carry out.
- Financial – It is not envisaged that there will be any additional financial calls placed upon the Council as a result of the adoption of the Code.
- Legal – The legal position in respect of the adoption of the Code and its place in the Council's overall constitutional settlement is explained in this report.
- Corporate – There will be a need to ensure that the objectives and principles of the Protocol are understood and embraced by both Members and Officers at all levels in the authority and appropriate training and explanation of the Protocol is likely to be required to help ensure that this is achieved.

- Risk Management – It is not anticipated that there is any direct risk arising from the adoption of the Code. However, it perhaps should be pointed out that, once adopted by the Council, the Code will be binding on both Members and Officers and any breach could, in the case of Members, give rise to a report to the Council's Standards Committee and, in the case of Officers, could amount to a breach of their own contractual responsibilities to the authority. The aim of the Protocol is, however, to ensure a better understanding on the part of both Members and Officers of their respective roles and therefore should help reduce the possibility of such breaches occurring.
- Equality Issues – Some of the principles governing the relationships between Members and Officers as set out in the Protocol do incorporate a range of equality issues but these should be familiar to all parties and be observed in any event as a matter of good practice, with or without the existence of the Protocol. The Protocol, however, emphasises their importance.
- Environmental – It is not considered that the draft Protocol raises any substantive environmental issues.
- Crime and Disorder – It is not considered that the Protocol raises any additional obligations or implications in these areas.
- Impact on Customers – If the Code is instrumental in improving the working relationships between Members and Officers then this should result in a more effective performance on the part of the Council generally and, therefore, a corresponding improvement for all the authority's customers and local taxpayers.

# **CARLISLE CITY COUNCIL**

**A PROTOCOL FOR RELATIONSHIPS BETWEEN**

**MEMBERS AND OFFICERS**

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“Every local authority should have its own written statement or protocol governing relations between members and officers.” (Third report of the Committee on Standards in Public Life – the Nolan Committee)

### **Preamble**

1. Mutual trust and respect between members and officers is at the heart of a Council’s good governance. They are essential if the partnership necessary for the effective running of a local authority is to succeed.
2. This may seem obvious. But what happens when relationships go awry? Where can members and officers turn for guidance? What mechanisms exist for addressing concerns? How can matters be improved?
3. Such questions point to the need for a written guide to the basic elements of the relationship between members and officers – a protocol :
  - to promote trust, openness, fairness and honesty by establishing some ground rules;
  - to define roles so as:
    - to clarify responsibilities (i.e. who does what),
    - to avoid conflict, and
    - to prevent duplication or omission;
  - to secure compliance with the law, codes of conduct and a council’s own practices; and
  - to lay down procedures for dealing with concerns by members or officers.

4. A protocol should be recognised both as a central element of the council's corporate governance, and as a commitment to upholding standards of conduct in public life. It's one way of demonstrating to the public at large that local government is serious about protecting and enhancing its integrity and reputation. Carlisle City Council has therefore adopted this protocol governing relationships between its officers and members as part of its governance arrangements in order to achieve the above objectives.

## **Definitions**

5. Unless the context indicates otherwise, references to the term *Council* include the Executive, Overview and Scrutiny Committees, and other Committees and Sub-Committees.
6. For the purposes of this protocol, the term *Executive* refers to the Leader and other members of the Executive under the Council's Constitutional arrangements.
7. Unless the context indicates otherwise, the terms *member* and *members* include non-elected (i.e. co-opted) members as well as elected councillors.
8. *Officers* and *staff* mean all persons employed by the Council.
9. *Senior Officer* means the Town Clerk and Chief Executive, the Directors and the Heads of Services.
10. *Designated Finance Officer* means the officer exercising the duties prescribed by law for the financial administration of the Council.

## Principles

11. Members and officers must at all times observe this protocol.
12. The protocol has been approved and adopted by the Council.
13. The protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of personal conduct.
14. Members and officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.
15. Whilst members and officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to members (individually and collectively) and to carry out the Council's work under the direction of the Council.
16. The Council has adopted codes of conduct for both members and officers. Both represent best practice. The members' code follows the national code which in turn is based on the general principles governing members' conduct enshrined in law, viz:
  - Selflessness – serving only the public interest.
  - Honesty and integrity – not allowing these to be questioned; not behaving improperly.
  - Objectivity – taking decisions on merit.
  - Accountability – to the public, being open to scrutiny.

- Openness – giving reasons for decisions.
  - Personal judgement – reaching one’s own conclusions and acting accordingly.
  - Respect for others – promoting equality; avoiding discrimination; respecting others (member/member, as well as member/officer).
  - Duty to uphold the law – not acting unlawfully.
  - Stewardship – ensuring the prudent use of a council’s resources.
  - Leadership – acting in a way which has public confidence.
17. These principles underpin this protocol. They will also be reflected in a new national code of conduct for employees due in the near future.
18. Until such time as a new national code appears, officers are bound by the Council’s own code of conduct for staff and, in some cases, by the codes of their professional associations.
19. Breaches of this protocol by a member may result in a complaint to the Standards Board for England if it appears the members’ code has also been breached. Breaches by an officer may lead to disciplinary action.

### **The Role of Members**

20. Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, members may wish to seek the advice of senior colleagues, the relevant senior officers(s), and/or the Monitoring Officer, who is the Council’s Director of Legal and Democratic Services.
21. Collectively, members are the ultimate policy-makers, determining the core values of the Council and approving the authority’s policy framework, strategic plans and budget.

22. Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
23. Every elected-member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
24. Some members have roles relating to their position as members of the Executive, overview and scrutiny committees or other committees and sub-committees of the Council.
25. Members of the Executive can have individual delegated powers. They may determine matters within their portfolios in accordance with the Leader's Scheme of Delegation but implementation of their decisions is the responsibility of officers.
26. Members serving on overview and scrutiny committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.
27. Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Executive.
28. Some members may be appointed to represent the Council on local, regional or national bodies.

29. As politicians, members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as members they have a duty always to act in the public interest.
30. Members are not authorised to instruct officers other than :
- Through the formal decision-making process;
  - to request the provision of consumable resources provided by the Council for members' use;
  - where staff have been specifically allocated to give support to a member or group of members; and
  - in the case of political assistants (if any) which the Council may employ.
31. Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
32. Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their code of conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the designated Finance Officer.
33. Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.
34. Members have a duty under their code of conduct :
- to promote equality by not discriminating unlawfully against any person, and
  - to treat others with respect.

35. Under the code, a member must not when acting as a member or in any other capacity :

- bring the Council or his/her position as a member into disrepute, or
- use his/her position as a member improperly to gain an advantage
- or disadvantage for him/herself or any other person.

### **The Role of Officers**

36. Officers are responsible for giving advice to members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.

37. Under the direction and control of the Council (including, as appropriate, the Executive, committees and sub-committees), officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

38. Officers have a duty to implement decisions of the Council, the Executive, committees and sub-committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution, and duly minuted.

39. 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.

40. Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.

41. Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for members, the media or other sections of the public.
42. Officers have the right not to support members in any role other than that of member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on officers' involvement in political activities for those officers employed in politically restricted posts.

### **The Relationship between Members and Officers : General**

43. The conduct of members and officers should be such as to instil mutual confidence and trust.
44. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
45. Informal and collaborative two-way contact between members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection.
46. Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
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. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict 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.
48. Officers serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.
  49. With the exception of political assistants (if any), officers work to the instructions of their managers, not individual members. It follows that, whilst such officers will always seek to assist a member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, members should normally direct their requests and concerns to a senior officer, at least in the first instance.
  50. Officers will do their best to give timely responses to members' enquiries. However, officers should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities.
  51. Members will endeavour to give timely responses to enquiries from officers.
  52. An officer shall not discuss with a member personal matters concerning him/herself or another individual employee. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward member.
  53. Members and officers should respect each other's free (i.e. non-Council) time.

## **The Council as Employer**

54. Officers are employed by the Council as a whole.
55. Members' roles are limited to :
- the appointment of some senior posts, specified in the Constitution;
  - determining human resources policies and conditions of employment;
  - the appointment of political assistants (if any), and
  - hearing and determining appeals.
56. Members shall not act outside these roles.
57. If participating in the appointment of officers, members should :
- remember that the sole criterion is merit (other than in the case of political assistants where political considerations may apply);
  - never canvass support for a particular candidate;
  - not take part where one of the candidates is a close friend or relative,
  - not be influenced by personal preferences, and
  - not favour a candidate by giving him/her information not available to the other candidates.
58. A member should not sit on an appeal hearing if the appellant is a friend, a relative, or an officer with whom the member has had a close working relationship.

## **Mayor and Officers**

59. Officers will respect the position of Mayor and provide appropriate support.

## **Executive members and officers**

60. Executive members will take decisions in accordance with the constitution and any relevant scheme of delegation and will not otherwise direct staff. Senior officers will be responsible for instructing staff to implement the Executive's decisions.
  
61. In addition to individual members of the Executive, senior officers (including the Monitoring Officer and the designated Finance Officer) have the right to submit papers to the Executive as a whole or to individual Executive members for consideration.
  
62. Senior officers and Executive members shall agree mutually convenient methods of regular contact. Before taking any formal decisions, the Executive will seek appropriate professional advice including, without exception, the Monitoring Officer and designated Finance Officer, and will not direct officers in the framing of recommendations.
  
63. Before any formal decisions with a financial implication are taken by the Executive, the Finance Officer and the senior officer(s) for the service(s) concerned must be consulted. This is to ensure that those officers who are budget holders :
  - are aware of the proposed decision,
  - have the opportunity to offer advice, and
  - are subsequently able properly to authorise the financial transactions needed to implement decisions.

64. An individual Executive member who is minded to write or commission a report or to make a decision about a matter within his/her portfolio must ensure that those other members and officers who need to know of the matter are so informed. There is a particular requirement to involve other Executive members on cross-cutting issues.
65. Executive members when making decisions (whether collectively or individually) must state the reasons for those decisions. The written record of the decisions must include the reasons.
66. Officers taking decisions under their delegated powers must consider the advisability of informing the relevant Executive member(s) of their intentions in advance when the matter to which the decisions relate is likely to be sensitive or contentious, or has wider policy implications. They must also observe the requirements set out in any relevant scheme of delegation (including the Leader's Scheme) when taking decisions.

### **Overview and Scrutiny Members and Officers**

67. Chairmen and other leading overview and scrutiny members shall maintain regular contact with the officer(s) providing the principal support to the overview and scrutiny function. In consultation with chairmen, it shall be the responsibility of the latter to ensure that those who need to know of matters being considered or for possible future consideration are so informed.
68. An overview and scrutiny committee or its chairman acting on its behalf may require officers to attend overview and scrutiny meetings. Members should not normally expect junior officers to give evidence but only officers employed at Principal Officer level and above as set out in the Overview

- and Scrutiny Procedure Rules. All requests should be made to senior officers in the first instance.
69. When making requests for officer attendance, overview and scrutiny members shall have regard to the workload of officers.
  70. It is recognised that officers required to appear before an overview and scrutiny committee may often be those who have advised the Executive or another part of the Council on the matter under investigation. In these circumstances, an officer may have a conflict of interest. Both members and officers need to consider the severity of the conflict. If deemed appropriate, research and advice may be sought elsewhere – from the Council’s dedicated overview and scrutiny support unit or externally.
  71. Subject to 70 above, officers should be prepared to justify advice given to the Council, the Executive, or other committees and sub-committees even when the advice was not accepted.
  72. Officers must also be prepared to justify decisions they have taken under delegated powers.
  73. In giving evidence, officers must not be asked to give political views.
  74. Officers should respect members in the way they respond to members’ questions.
  75. Members should not question officers in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature.

76. Overview and scrutiny proceedings must not be used to question the capability or competence of officers. Chairmen and members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not an overview and scrutiny function.
77. In exercising the right to call-in a decision of the Executive, overview and scrutiny members must seek officer advice if they consider the decision is contrary to the Council's approved plans, policies or frameworks, or is unlawful.

### **Members of other Committees or Sub-Committees and Officers**

78. The appropriate senior officers will offer to arrange regular informal meetings with chairmen, vice-chairmen and spokesmen of committees and sub-committees.
79. Senior officers (including the Monitoring Officer and the designated Finance Officer) have the right to present reports and give advice to committees and sub-committees.
80. Members of a committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct officers to act.
81. At some committee or sub-committee meetings, a resolution may be passed 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 legal power to take decisions on behalf of a committee or sub-committee, neither should he/she apply inappropriate pressure on the officer.

### **Party Groups and Officers (excluding Political Assistants)**

82. Senior officers may properly be asked to contribute to deliberations of matters concerning Council business by party groups.
83. Officers have the right to refuse such requests, and will normally not attend a meeting of a party group where some of those attending are not members of the Council.
84. Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.
85. Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.
86. Where officers provide factual information and advice to a party group in relation to a matter of 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 Council.
87. It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because he/she has attended or provided information to the meeting.
88. Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to

- any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.
89. In their dealings with party groups, officers must treat each group in a fair and even-handed manner.
  90. Members must not do anything which compromises or is likely to compromise officers' impartiality.
  91. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
  92. An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.
  93. An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf.
  94. An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
  95. No member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.
  96. At party group meetings where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to Council business. Persons who are not members are not bound by the Members' Code of Conduct. They do not have the same rights to Council information as members.

97. Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Town Clerk and Chief Executive and the relevant party group leader.

**Political Assistants (if appointed by the Council)**

98. These officers (if any such are appointed) have been appointed by the Council exclusively to provide support to each of the party groups. Their function is to assist the interests and work of the group to which they have been assigned. This is in contrast to all other staff whose duty is to serve the Council as a whole.
99. Political assistants will be treated in accordance with and expected to observe all codes, policies and practices relating to the Council's staff. This includes the courtesy and consideration which the Council expects its officers to show to one another.
100. Except for their immediate secretarial and clerical support, the assistants will have no line management responsibility or power of direction over other staff.
101. Political assistants are not authorised to comment publicly on behalf of the Council as a whole, or to commit the Council to any particular course of action, but can comment on behalf of the party group to which they have been assigned.
102. The level of access to Council documents and information shall be that enjoyed by members.

## **Local Members and Officers**

103. To enable them to carry out their ward role effectively, members need to be fully informed about matters affecting their ward. Senior officers must ensure that all relevant staff are aware of the requirement to keep local members informed, thus allowing members to contribute to the decision-making process and develop their representative role.
104. This requirement is particularly important :
- during the formative stages of policy development, where practicable;
  - in relation to significant or sensitive operational matters;
  - whenever any form of public consultation exercise is undertaken, and
  - during an overview and scrutiny investigation.
105. Issues may affect a single ward. Where they have a wider impact, a number of local members will need to be kept informed.
106. Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the wards affected should be invited to attend the meeting as a matter of course.
107. If a local member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant officer. Provided the meeting has not been arranged on a party political basis :
- an officer may attend but is not obliged to do so, and
  - the meeting may be held in Council-owned premises.

108. No such meetings should be arranged or held in the immediate run-up to Council elections. Further advice on this should be obtained from the Council's Monitoring Officer.
109. Whilst support for members' ward 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.
110. Officers must never be asked to attend ward or constituency political party meetings.
111. It is acknowledged that some Council staff (e.g. those providing dedicated support to Executive members) may receive and handle messages for members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.
112. In seeking to deal with constituents' queries or concerns, members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by members in the requested timescale, and may need to seek instructions from their managers.

### **Members' Access to Documents and Information**

113. This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's Constitution.

114. Members may request senior officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if :
- it is in the public domain, and
  - it is not barred by the Data Protection Act from being given.
115. Every member of the Executive, an overview and scrutiny committee, and/or any other committee or sub-committee has a right to inspect documents about the business of that overview and scrutiny committee, other committee or sub-committee or the Executive.
116. A member who is not a member of a specific overview and scrutiny committee, other committee or sub--committee, or the Executive may have access to any document of that specific part of the Council provided :
- he/she can demonstrate a reasonable need to see the documents in order to carry out his/her roles as a member (the "need to know" principle), and
  - the documents do not contain "confidential" or "exempt" information as defined by the law.
117. Disputes as to the validity of a member's request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should seek his/her advice if in any doubt about the reasonableness of a member's request.

118. A member should obtain advice from the Monitoring Officer in circumstances where he/she wishes to have access to documents or information :
- where to do so is likely to be in breach of the Data Protection Act, or
  - where the subject matter is one in which he/she has a personal or prejudicial interest as defined in the members' code of conduct.
119. Information given to a member must only be used for the purpose for which it was requested.
120. It is an accepted convention that a member of one party group will not have a need to know and therefore a right to inspect a document which forms part of the internal workings of another party group.
121. Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
122. When requested to do so, officers will keep confidential from other members advice requested by a member.
123. Members and officers must not prevent another person from gaining access to information to which that person is entitled by law.

### **Media Relations**

124. All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.

125. Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.
126. Officers will keep relevant members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.
127. Before responding to enquiries from the media, officers shall ensure they are authorised to do so.
128. Likewise, officers will inform the Council's Communications section of issues likely to be of media interest, since that unit is often the media's first point of contact.
129. If a member is contacted by, or contacts, the media on an issue, he/she should :
  - indicate in what capacity he/she is speaking (e.g. as ward member, in a personal capacity, as an Executive member, on behalf of the Council, or on behalf of a party group);
  - be sure of what he/she wants to say or not to say;
  - if necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's Communications section and/or relevant senior officer, except in relation to a statement which is party political in nature;
  - consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions);
  - never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
  - consider whether to consult other relevant members; and

- take particular care in what he/she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist.

### **Correspondence**

130. Correspondence between an individual member and an officer should not be copied to another member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, i.e. there should be no “blind” copies.
131. Official letters written on behalf of the Council should normally be in the name of the relevant officer. It may be appropriate in some circumstances (e.g. representations to a Government Minister) for letters to appear in the name of an Executive member or the chairman of an overview and scrutiny committee.
132. The Mayor may initiate correspondence in his/her own name.
133. Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a member.
134. When writing in an individual capacity as a ward member, a member must make clear that fact.

### **Access to Premises**

135. Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.
136. Members have a right of access to Council land and premises to fulfil their duties.

137. When making visits as individual members, members should :
- whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
  - Comply with health and safety, security and other workplace rules;
  - Not interfere with the services or activities being provided at the time of the visit;
  - If outside his/her own ward, notify the ward member(s) beforehand; and
  - Take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

### **Use of Council Resources**

138. The Council provides all members with services such as typing, printing and photocopying, and goods such as stationery and computer equipment, to assist them in discharging their roles as members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

139. Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly :
- where facilities are provided in members' homes at the Council's expense;
  - in relation to any locally-agreed arrangements e.g. payment for private photocopying;
  - regarding ICT security, and
  - the Council's members' e-mail and internet protocol set out in the Constitution.

140. Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples are :

- business which is solely to do with a political party;
- work in connection with a ward or constituency party political meeting;
- electioneering;
- work associated with an event attended by a member in a capacity other than as a member of the Council;
- private personal correspondence;
- work in connection with another body or organisation where a member's involvement is other than as a member of the Council; and
- support to a member in his/her capacity as a councillor of another local authority.

### **Interpretation, Complaints and Allegations of Breaches**

141. This part of the protocol should be read in conjunction with any "whistle-blowing" policy the Council may have.

142. Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.

143. A member who is unhappy about the actions taken by, or conduct of, an officer should :

- avoid personal attacks on, or abuse of, the officer at all times;
- ensure that any criticism is well founded and constructive;
- never make a criticism in public, and
- take up the concern with the officer privately.

144. If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the member should raise the issue with the officer's manager or the relevant senior officer.
  
145. A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary procedure.
  
146. An officer who believes a member may have acted other than in accordance with this protocol should raise his/her concern with the Monitoring Officer. He/she will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group. More serious complaints may involve alleged breaches of the members' code of conduct, and may be referred to the Standards Board for England.

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**EXCERPT FROM THE MINUTES OF THE  
CARLISLE CITY COUNCIL/TRADES UNION  
CORPORATE JOINT CONSULTATIVE MEETING  
HELD ON 18 OCTOBER 2006**

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**CJC 43/06 MEMBER/OFFICER PROTOCOL**

The Member/Officer protocol is part of the Council's Constitution and code of conduct. D Williams circulated a draft copy of the protocol that is being worked on and updated.

The Council has participated in an IDeA national project to encourage Members to take a more proactive role in HR issues. The protocol will be presented to Executive on 23 October before going to O&S then back to Executive before going to Council.

The Unions were comfortable with the draft of the protocol.

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## **EXCERPT FROM THE MINUTES OF THE STANDARDS COMMITTEE HELD ON 4 DECEMBER 2006**

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### **ST.11/06     PROTOCOL FOR RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS**

The Director of Legal and Democratic Services reported (LDS.74A/06) on a Draft Protocol governing the relationship between Members and Officers. He informed Members that the report had been considered by the City Council's Executive on the 23 October and approved as the basis for consultation.

The Director informed members that the views of the Standards Committee on the Protocol would be referred back to the Executive along with comments from other forums for the Executive's further consideration prior to the Protocol being recommended to Council for approval.

He reminded Members that the Council currently had, as part of its Constitution, a number of codes and protocols dealing with matters relating to probity and relationships between Members and Officers. This report dealt with the existing Protocol governing the relationship between Members and Officers and he added that the purpose of the Protocol was to act as a point of reference and assistance with regard to how the Member and Officers' roles were intended to sit under the constitutional arrangements and to provide guidance as to what should be regarded as best practice in the day to day working environment of the Council.

He added that although not mandatory the adoption of such a protocol was considered to be best practice in terms of governance arrangements.

Members commented on and raised queries on a number of paragraphs in the Protocol.

Members queried in particular Paragraph 70 regarding the Conflict of Interest of Officers who are required to appear before an Overview and Scrutiny Committee having also advised the Executive or another part of the Council on the matter under investigation, and felt that it may be appropriate to note in the Protocol that whilst this was a conflict of interest it was not a personal interest.

Paragraph 72 said that Officers must also be prepared to justify decisions they have taken under delegated powers, and it was suggested that it may be better to replace the word "justify" with "explain" as Officers might be expected to explain decisions rather than justify decisions.

As regards to paragraph 92, it was suggested that when an Officer had attended one party group, he/she should tell or advise the other groups on the Council as a matter of

course. That he/she has had an invitation and give those groups an opportunity to extend the invitation to him/her.

Members of the Committee had an alternative view that political groups may not wish to inform other political groups on the Council of the areas of work that they are looking at.

Paragraph 136 says that Members have a right of access to Council land and premises to fulfil their duties. The Committee noted that there were safeguards in paragraph 137. Members considered whether a Councillor should be entitled to go to sheltered housing etc without notification of management and effectively undertake spot visits or spot inspections.

RESOLVED – That the draft Protocol as attached to Report LDS.74A/06 be welcomed as a Protocol for Relationships between Members and Officers, and the views of the Standards Committee be submitted to the Executive for their consideration prior to the Executive recommending the Protocol to full Council for adoption.

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**EXCERPT FROM THE MINUTES OF THE  
CORPORATE RESOURCES OVERVIEW AND SCRUTINY  
COMMITTEE  
HELD ON 7 DECEMBER 2006**

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**CROS.127/06 REFERENCES FROM THE EXECUTIVE/OVERVIEW AND SCRUTINY**

**(a) Protocol for Relationships between Members and Officers**

The Executive had on 23 October 2006 considered report LDS.74/06 enclosing a draft Protocol governing the relationships between Members and Officers in order to commence the necessary consultative process to enable it to be recommended to full Council for adoption as part of the Authority's Constitution in place of the current Protocol.

The Executive had approved the draft Protocol as the basis for consultation with this Committee.

The Director of Legal and Democratic Services (Mr Egan) then outlined the content of report LDS.74/06 for the benefit of Members.

Discussion arose, during which Members raised the following questions and observations:

1. In response to a question, Mr Egan stated that breaches of the protocol by a Member may result in a complaint to the Standards Board for England if it appeared that the Members' Code had also been breached. Breaches by an Officer may lead to disciplinary action.
2. A Member considered that much of the protocol was subjective and open to interpretation.
3. A Member referred to the section concerning Overview and Scrutiny Members and Officers (68), whereby an Overview and Scrutiny Committee or its Chairman acting on its behalf may require Officers to attend Overview and Scrutiny meetings. He considered that it was beneficial if the Officer who actually dealt with a particular matter attended, rather than the Chief Officer.

In response, Mr Egan advised that Members could make such a request. However, the Council's Constitution set out that Members should not normally expect junior

Officers to give evidence but only Officers employed at Principal Officer level and above.

4. In response to a question on the implications of section 107, Mr Egan stated that, if a local Member intended to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant Officer who could then provide a factual account of the Council's position.
5. A Member noted that, when requested to do so, Officers would keep confidential from other Members advice requested by a Member (section 122). The Member referred to instances in the past where she had sought confidential advice and found that the Officer's response to her had also been copied to the Portfolio Holder. That was of particular concern around issues such as the Budget or policy development.

The Member said that she would prefer that such advice was kept confidential without the Member having to stipulate that.

Mr Egan acknowledged the point raised which put an obligation on the Member to request that such matters be kept confidential.

The Deputy Town Clerk and Chief Executive expressed a note of caution in that responses to such requests may require to be disclosed under the requirements of Freedom of Information Act.

Mr Egan replied that if a Member asked for a matter to remain confidential then it would be treated as such. The onus was, however, on the Member.

The Member in question accepted the Officers' explanation.

6. Sections 103 and 104 – Local Members and Officers – were particularly welcome since Members had been asking for some years to be kept informed of issues affecting their Wards.

RESOLVED – That the Executive be advised that the Committee accepts the Protocol for Relationships between Members and Officers as written.