

# Allerdale Borough Council

## Protocol for Member/Officer Relations

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### 1. Introduction

- 1.1 The Member/Officer Protocol is designed to provide a guide to good working relations between Members and Officers, to define their respective roles and provide some principles governing conduct. It is hoped the Protocol will help build and maintain good working relationships between Members and Officers as they work together.
- 1.2 It is recognised that relationships between Members and Officers are very varied and can often be complex. The Protocol cannot provide a definitive statement on every situation that Members and Officers may find themselves in, but offers guidance for a number of common situations.
- 1.3 This Protocol is, to a large extent, a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed, it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.4 It also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.5 Both Members and Officers serve the public and they are indispensable to one another. However, their responsibilities are distinct.
- 1.6 Members are responsible for policy decisions for Council and Officers give effect to Council policies.
- 1.7 Officers are responsible for day-to-day managerial and operational decisions within the Council and shall provide support to all Members.
- 1.8 Certain statutory officers, i.e. the Chief Executive, the Monitoring Officer and the Chief Financial Officer, have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members.

### 2. General Principles

- 2.1 The fundamental principles on which this Protocol is based are:
  - a) the Council is a democratically-elected local authority delivering a range of services to the people of Allerdale;

- b) the Council is a single entity, a statutory corporate body;
- c) the separate functions of the Council such as the Executive, Scrutiny and regulatory areas are just aspects of the Council as a single statutory corporate body;
- d) in everything they do, the Members and Officers of the Council are obliged to act within the law and in compliance with relevant Standards and Codes of Conduct;
- e) dealings between Members and Officers should be based on mutual trust and respect;
- f) relationships between Members and Officers must exist on a professional basis only so that the ability of an Officer to deal impartially with Members or political groups could not be questioned;
- g) Officers should not approach Members on matters to do with reorganisations, their terms and conditions of employment or other employment matters except through procedures laid down in the employee handbook or agreed by the Head of Paid Service.

### **3. The role of Members**

- a) Members provide the political direction and leadership of the Council and are ultimately accountable to the people of Allerdale through the ballot box for their actions as Councillors;
- b) Members contribute to the decisions taken in full Council and in various bodies on which they serve, as well as committees, outside bodies and organisations to which they are nominated by the Council;
- c) Members are involved in quasi-judicial work through their membership of regulatory committees;
- d) Members help develop and review policy and strategy;
- e) Members monitor and review policy implementation and service quality;
- f) Members are involved in active partnerships with other organisations as community leaders;
- g) Members recognise that Officers have the duty and right to provide appropriate professional advice and the right to have that advice recorded, so that all Members are fully aware of the implications of their decisions;
- h) The provision of professional advice by Officers is the principal means by which Members can gain assurance that their decisions comply with the law and relevant Standards or Codes of Conduct;
- i) Members are able to ask questions about the Council's decisions and performance both at formal meetings and informally. Members will have regard for an Officer's level of seniority and area of responsibility in determining what are reasonable comments and questions.

### **4. The role of Officers**

- a) Officers serve the whole Council as a single statutory corporate body but recognise the differences between the Council's functions and particularly the role of the Executive;
- b) Officers initiate policy proposals and implement agreed policy;

- c) Officers ensure that the Council always acts in a lawful manner;
- d) Officers provide advice to the Council and its various bodies and to individual Members in respect of the services provided;
- e) Officers are free to take decisions within their area of responsibility which have been delegated to them but recognise that, where functions have not been delegated to Officers, it is the right of Members to take the final decisions in the light of their advice;
- f) The advice provided by Officers should be factual, honest and objective. The advice provided by Officers and the actions they take should be politically neutral and undertaken without fear of intimidation or restraint;
- g) The advice provided and actions taken by Officers should be sensitive to the political aspirations and constraints of Members but should not reflect, or be influenced by, those aspirations and constraints;
- h) The advice given and actions taken by Officers will have the ultimate aim of serving the interests of the Council as a whole, irrespective of whether the current emphasis of an Officer's role is the Executive, Scrutiny or Regulatory.

## **5. Relationship between Members and Officers**

- 5.1 It is important that any dealings between Members and Officers, both written and oral, should observe professional standards of courtesy.
- 5.2 The relationship between Members and Officers will be enhanced by friendly relations. However, mutual respect and the belief that Officers are providing objective professional advice to Members must not be compromised. Members and Officers should be cautious in developing close friendships.
- 5.3 It is very important that both Members and Officers remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other Officers, in public places.
- 5.4 Officers must not allow their personal or political opinions to influence or interfere with their work. Officers should not take part, and Members should not ask Officers to take part, in any activity which could be seen as influencing support for a political party. Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business.
- 5.5 It is important in any dealings between Members and Officers that neither should seek to take unfair advantage of their position.
- 5.6 Some Officers are in posts which are 'politically restricted' by law. This means that individual post holders are prevented from carrying out any active political role either outside or inside the Council.

- 5.7 Members should raise with the Chief Executive any concerns about the political neutrality of an Officer.
- 5.8 Both Members and Officers should adhere to the rules and regulations set by Council to manage committee business, for example, Procedural Standing Orders and Committee Terms of Reference and Delegated Functions.

## **6. Members' Access to Information and to Council Documents**

- 6.1 A Member is entitled to see such documents as are reasonably necessary to enable him or her to carry out their role as a Member of Council. This can range from a request for general information about some aspect of a council service to a request for specific information on behalf of a constituent. There is, however, no general right to examine all documents of the Council; a mere curiosity or wish to see them is not sufficient. Furthermore, disclosure will be refused if a Member's intent is other than in his or her public position.
- 6.2 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.
- 6.3 The common law right of members is based on the principle that any member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This principle is commonly referred to as the "need to know" principle.
- 6.4 The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/she has the necessary "need to know". In this respect a Member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know".
- 6.5 Further advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.
- 6.6 In addition to a Member's common law rights and the provisions of the Freedom of Information Act 2000, the Local Government Act 1972 provides a statutory right of access to documents. Any document which is in the Council's possession and contains material relating to any business to be transacted at a meeting of the Council, the Executive, a Committee or Sub Committee is to be open to inspection by any Member. This right applies irrespective of whether the member is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers.
- 6.7 However, there is no right of inspection where it appears to the Monitoring Officer that a document discloses certain classes of exempt information as set out in the Access to Information Procedure Rules Section 11 of the

Constitution. Examples are documents that contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

## **7. Confidentiality**

- 7.1 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member's duties as a Member of the Council.
- 7.2 The Code of Conduct states that a Member must not disclose confidential information or information which he or she believes to be of a confidential nature, except in some specific circumstances.
- 7.3 Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she should ask the relevant Officer, but treat the information as confidential in the meantime.

## **8. Administrative Support to Members**

- 8.1 The Council can lawfully provide support services, materials and equipment (e.g. stationery, word processing, printing, photocopying, transport, etc.) to Members to assist them only in their role as Members of the Council. Such support must therefore only be used for Council business and should never be used in connection with party political or campaigning activity or for private purposes.
- 8.2 Officers will always assist Members in their official Council work and in dealing with their constituents' problems relating to Council services. They cannot carry out tasks for Members of a purely political or personal nature.

## **9. Media**

- 9.1 Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Officers provide factual information.
- 9.2 If a Member is unsure about the circumstances of a particular issue he/she should contact the appropriate Senior Officer concerned or ask the Communications and Marketing Manager to do so.
- 9.3 All press releases will be expected to comply with both legislative requirements and the Code of Recommended Practice on Local Authority Publicity.

## **10. Complaints**

- 10.1 If a Member has cause to complain about the conduct of an Officer, they should make their complaint, preferably in writing, to the relevant Head of Service. If the complaint is about a Head of Service, it should be made to the Corporate Director; if it is about the Corporate Director, it should be made to the Chief Executive and if it is about the Chief Executive to the Monitoring Officer. The complaint will be investigated and dealt with in accordance with the Council's disciplinary procedures if required.
  
- 10.2 If an Officer has cause to complain about the conduct of a Member they may make a complaint to the Monitoring Officer if they consider that the conduct involves a breach of the Members' Code of Conduct. If an Officer considers that the conduct does not involve a breach of the Code of Conduct but is in breach of this Protocol or other Council protocols, they should make their complaint, preferably in writing, to the Monitoring Officer. In both cases officers should seek the advice of the Monitoring Officer.