

MEMBER/OFFICER PROTOCOL

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REPORT AUTHOR: Martin Jepson

Summary and

Recommendation: Invites Members to consider the Member/Officer Relations – Protocol and whether to make recommendations for additions to the Protocol in relation to meetings.

1. INTRODUCTION

- 1.1 At the last Council Meeting held on July 28th, Members discussed at some length a meeting widely reported in the press and held at Irton where the Council's policies on bin collections in rural areas came in for some criticism.
- 1.2 The meeting was well attended by approximately 150 local residents together with three District Councillors, one of whom was the Ward Councillors. By all accounts the debate was intense and the Council Officers were subject to much questioning.
- 1.3 At the Council meeting I was asked as Monitoring Officer to look at the circumstances surrounding this meeting. I took it that this meant not only having regard to Code of Conduct issues but also the image of the Council .

2. CONCLUSIONS OF INVESTIGATION

- 2.1 Having spoken with some of those who attended , I am clear that there are no Code of Conduct issues which need to be addressed. The difficulty of the meeting arose because of the strong feelings of the large numbers of local residents who attended the meeting.
- 2.2 However, it did lead me to consider the Member/Officer Relations – Protocol, which forms part of the Borough Council's Constitution. The Protocol is attached at Appendix A to this report. One of the terms of reference of the Standards Committee is "Overseeing the Council's Constitution ". It therefore seems appropriate to seek the Committee's views over whether

the Protocol should include relevant provisions relating to Member/Officer relations at meetings and particularly at outside meetings.

3. MEMBER/OFFICER RELATIONS – AND MEETINGS

3.1 Research into protocols of other Council's support the following protocols in respect of meetings:-

- A requirement that Members and Officers show respect to each other at meetings;
- An acknowledgement that although Members are entitled to question Officers at meetings they should avoid personal attacks and ensure criticism is constructive and well-founded;
- An expectation that Officers should be allowed the opportunity to explain themselves;
- Whenever a public meeting is arranged to consider a local issue, all the Members representing a Ward should be invited to attend the meeting;
- Should a Member intend to attend a public meeting outside their Wards relating to a local issue when they know an Officer is to attend they should advise the Officer of their intention to attend.

4. CONCLUSION

4.1 Although it should be emphasised that there has been no evidence of inappropriate behaviour in the case of the outside meeting referred to, it does give Members the opportunity to consider whether provisions relating to meetings ought to be included in the current Protocol – and if so, what they should be.

List of Appendices:

Appendix A: Member/Officer relations –
Protocol.

List of Background Documents: None.

List of Consultees:

Chairman of
Standards Committee, Acting
Chief Executive, Head of
Finance and MIS

COPELAND BOROUGH COUNCIL

MEMBER/OFFICER RELATIONS - PROTOCOL

1. INTRODUCTION

- 1.1 The purpose of this document is to provide a guide to good working relationships between Officers and Members of the Council, to define the respective roles of Members and Officers and provide some principles governing conduct.

2. THE RESPECTIVE ROLES OF MEMBERS AND OFFICERS

- 2.1 Members are elected and represent their constituents. Under Executive arrangements for the Council, Members will perform roles on the Executive, on Overview and Scrutiny Committees and on Committees and Panels of the Council, in addition to sitting as Members of the Full Council. Some Members represent the Council upon outside bodies.
- 2.2 Officers are employed by and serve the whole Council. They advise the Council, its Committees and the Executive. They implement decisions of the Council, the Executive and Committees and make decisions under powers delegated to them.
- 2.3 Officers are responsible to their Service Head and ultimately to the Chief Executive. The Chief Executive is accountable to the whole Council. Some senior officers have specific statutory responsibilities, including the Chief Executive, as the Head of Paid Service, the Head of Finance & Business Development as the Chief Financial Officer (Section 151, Local Government Act 1972) and the Head of Legal & Democratic Services, as Monitoring Officer (Section 5, Local Government & Housing Act 1989).

3. OFFICERS' ADVICE AND POLITICAL NEUTRALITY

- 3.1 Officer advice and support will be provided to: -

- Council Meetings;
- Meetings of the Executive and any Committees established by the Executive;
- Executive Members;
- Shadow Executive Members;
- Meetings of Overview and Scrutiny Committees;
- Chairmen/Vice-Chairmen of Overview and Scrutiny Committees and other committees and panels.
- all Members of Council on Council business.

Officers will also provide advice and assistance to individual Members in respect of Council business (including issues raised by constituents), in confidence.

- 3.2 Officers must not be requested to advise upon, or provide any resources in connection with, matters of party business or private matters.

- 3.3 All Officers must treat political Groups and individual Members in a fair and even-handed manner. Officers must maintain political neutrality and Members must respect this.
- 3.4 Senior officers may, in exceptional circumstances, be invited to attend political Group meetings.
- 3.5 Political Group meetings fall outside the Council's decision-making process. Conclusions reached at such meetings are not formal Council decisions and so should not be relied upon as such. Council employees cannot be involved in arrangements for calling or recording proceedings at political group meetings or in supporting them in other ways which involve use of Council resources.
- 3.6 Under overview and scrutiny arrangements some separation of duties will be required where scrutiny examinations are being undertaken by an Overview and Scrutiny Committee. Officers responsible for procedural or legal advice to the Executive when a decision is taken, would be unable to carry out that role, or a scrutiny support role, if that decision is subsequently subject to a scrutiny examination. Similarly, an officer who has given professional advice to the Executive may subsequently be required to give evidence as a witness in a scrutiny examination by an Overview and Scrutiny Committee. Members need to understand these different roles which will arise under overview and scrutiny, and should seek advice from the Head of Legal and Democratic Services or the Democratic Services Manager if they need further guidance, either in general terms or on specific issues.

4. OFFICERS' ADVICE ON DECLARATIONS OF INTEREST

- 4.1 The Head of Legal and Democratic Services and the Democratic Services Manager will provide advice and information to Members on the declaration and registration of interests under the Council's Code of Conduct for Members. However, Members will know the nature and extent of any interest they may have. It is the Member's responsibility, therefore, to decide whether any interest should be declared and whether the interest is a personal interest, or both a personal and a prejudicial interest and to leave the room during the discussion of the item if the interest is both personal and prejudicial. Officers must, when requested to do so, respect Members' confidentiality when providing advice on declarations of interest but may otherwise draw to a Member's attention the need to declare a known interest. It is the responsibility of all Members to ensure that they are aware of their duties and responsibilities under the Council's Code of Conduct for Members.

5. PERSONAL RELATIONSHIPS

- 5.1 Relations between Members and Officers should at all times be based primarily on sound professional working relationships. Close personal familiarity between individual Members and Officers can damage working relationships and prove embarrassing to other Members and Officers. There is the danger of favouritism being shown to a particular Member or Officer. There may be a risk that exempt or confidential information will, perhaps unintentionally, be passed to a Member or Officer who does not have the right of access to such information.
- 5.2 For these reasons, such personal familiarity between Members and employees should be avoided where possible. Nevertheless, it is recognised that there may be

occasions where it is unavoidable, particularly where family relationships or common interests (e.g. a club) arise.

- 5.3 A Member must declare in the Register kept by the Head of Legal & Democratic Services declare to his/her any relationship with an Officer that might be seen as influencing his/her work as a Member. This includes a family or close personal relationship. Similarly, the Officer concerned should notify his/her Service Head or, in the case of a Service Head or Director, the Chief Executive. In the case of the Chief Executive, then all Group Leaders should be notified. The Chief Executive and the relevant Service Heads will arrange for the relationship to be recorded.

6. APPOINTMENT OF OFFICERS

- 6.1 Members must not take any part in the recruitment or appointment of anyone to whom they are:

- married;
- a partner;
- otherwise related;
- a friend;
- a business associate.

- 6.2 Members must, in cases where they are involved in recruitment, ensure that Officers are appointed only on merit, with a view to their best serving the whole Council. Members can only by law be involved in the appointment of officers at the level of Service Head and above (see part 4H of the Council's Constitution).

7. UNDUE PRESSURE

- 7.1 A Member should not apply undue pressure on an Officer to do anything which he/she is not empowered or authorised to do, or which is against the Officer's professional judgement, or to undertake work outside normal duties or normal hours (other than within accepted working patterns, e.g. evening meetings). Members should be aware that to exert pressure improperly on an officer in this way may be a breach of the Council's Code of Conduct for Members.

- 7.2 Similarly, an Officer must not seek to influence an individual Member to make a decision in his/her favour, nor raise personal matters to do with his/her job, nor make claims or allegations about other employees, except in accordance with any agreed Council procedure or in accordance with law. Members who receive any such approach from an Officer should advise the Chief Executive or the Head of Legal and Democratic Services immediately. The Council has formal procedures for consultation, grievance and discipline, etc. dealing with these matters.

8. OFFICERS' REPORTS AND ADVICE

- 8.1 The named Lead Officer of a report to the Council, the Executive or any other part of the formal decision-making structure will always be fully responsible for the

contents of it. Under Overview and Scrutiny arrangements, an Officer can be held responsible for the contents of his/her reports or advice and be required to answer for the advice given.

- 8.2 The Executive Member for the relevant portfolio should be consulted on, and may comment upon, the contents of a proposed report.
- 8.3 A report will only be amended where the suggested amendment also reflects the professional judgement of the Lead Officer. Any remaining disagreement between the Executive Member and the Lead Officer should be referred to the Service Head, or, if the author of the report is a Service Head, to the Chief Executive for resolution after consultation with Leading Members. If ultimately, a disagreement cannot be resolved, the report will record both dissenting views.
- 8.4 Occasionally, Officers will need to express a professional view on a matter which may not support the view of the leading Group.

9. DECISIONS MADE UNDER DELEGATED POWERS

- 9.1 Officers may make decisions under powers delegated to them pursuant to the Scheme of Delegation or by specific authority from the Executive or a Committee, or the Council. It must be recognised that it is the Officer, and not any Member, who takes the action and it is the Officer who is accountable for it, though there may be cases where consultation with a Member (e.g. an Executive Member) is required before a decision is taken. There is an agreed protocol setting out the steps to be followed in taking action under delegated powers of officers and this should be strictly adhered to at all times.
- 9.2 Executive Members may make decisions on Executive functions where there is a specific delegation from full Council for such decisions to be taken by an individual Executive Member. There is an agreed Protocol on procedures to be followed by Executive Members in taking delegated decisions, which includes requirements for consultation with specified officers prior to decisions being made. Executive Members and officers responsible for supporting their portfolios should be aware of the requirements of the Protocol and ensure that it is followed in all cases.

10. THE OFFICER RELATIONSHIP WITH THE LEADER AND OTHER EXECUTIVE MEMBERS

- 10.1 The working relationship between senior Officers and the Leader/Executive Members will be particularly close. Executive Members will have broad-ranging responsibilities. Officers may provide briefing notes, advice and information to the Executive Members or other Members in respect of reports or questions at meetings of the Executive, Committees and Council. This relationship, however, must not:
 - compromise Officers' duties to all Members of the Council;
 - be so close as to give the appearance of partiality on the part of the Officer;
 - undermine the confidentiality of any discussions with Corporate Team or between Senior Officers and other Members;

- compromise Officers' professional responsibility to advise Members that a particular course of action should not be pursued;
- abrogate Officer responsibility for action taken under the Scheme of Delegation or otherwise properly delegated to an Officer.

11. CONSTRUCTIVE CRITICISM/COMPLAINTS

- 11.1 It is important that there should be mutual respect and courtesy between Members and Officers and that no Member or Officer should seek to take unfair advantage of their position.
- 11.2 Members and Officers should not criticise or undermine respect for each other at Council Meetings or at any other meeting they attend in their capacity as a Member or Council employee.
- 11.3 Members should not raise matters relating to the conduct or capability of an individual Council Officer, or Officers collectively, at meetings held in public.
- 11.4 If a Member believes that he/she has not been treated with proper courtesy or has a concern about the conduct or capability of an Officer, he/she should raise the matter with the Service Head in question. If he/she is not satisfied with the action that has been taken in response to this, he/she may raise the matter with the Chief Executive who will look into the matter afresh. If the Chief Executive believes that there is a case to answer he/she may determine the action to be taken which might include the Council's formal disciplinary procedures. If the Officer concerned is the Chief Executive then the Member should raise the matter with their Group Leader, who should initially discuss the issue with the Chief Executive. If necessary arbitration arrangements involving the North West Employers' Organisation or other appropriate arbitrating party will be invoked.
- 11.5 If an Officer feels that he/she has not been treated with respect or is concerned about any action or statement relating to him/herself or a colleague by a Member, or conduct of a Member, he/she should raise the matter with his/her Service Head or other member of Corporate Team. If he/she is not satisfied with any action that has been taken as a result, the matter may be referred, if it involves a breach of the Council's Code of Conduct for Members, to the Standards Board for England for investigation.

12. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 12.1 Any person has a right under the provisions of the Freedom of Information Act 2000 to be supplied with information held by the Council, on making a written request, unless the information falls into one of the exempt categories under the Act. The provisions of this Protocol do not affect those rights.
- 12.2 All Members will normally be sent agendas (front sheets) for all formally-convened meetings. Full sets of papers will only be supplied on a regular basis to those who are members of a particular body - e.g. the Executive or a committee. Full sets will only be supplied to other Members where they request this, or in certain special cases, such as Overview and Scrutiny Committee members, who are supplied with

all papers for Executive meetings. Full sets of papers are available to all Members on the Council Intranet, and wherever possible papers will be supplied to Members in electronic rather than paper format.

- 12.3 Each Member has the right, on request, to inspect and have copies of any reports, minutes and background papers relating to the public part of any Council, Executive, Committee or Panel agenda. However, Members do not have an automatic right of access to all documents relating to confidential ("Exempt") items on the agenda. These might include, for instance, information relating to employees, occupiers of Council property, contracts, industrial relations negotiations, legal advice and criminal investigations.
- 12.4 In respect of such exempt information, Members will normally receive, or have access to all papers on request unless they are of particular sensitivity. A Member may have access to such sensitive documentation insofar as it is reasonably necessary to enable him/her to properly perform his/her duties as a Member of the Council. The relevant question to be asked is whether he/she needs to know the information to perform such duties.
- 12.5 A Member of the Executive, a Committee or Panel will normally have a "need to know" in relation to documentation coming before that body for decision, as will a Member investigating a matter on behalf of a constituent, where the exempt documents are directly relevant.
- 12.6 Where a Member has a personal or prejudicial interest in a matter, the Member will only be entitled to the same rights of access to documentation as would apply for the public generally, although the Member would continue to receive the same documentation as is sent to other Members of the Council.
- 12.7 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council. Exempt or confidential information should not be disclosed, discussed with or released to any other persons. Such disclosure would be a betrayal of trust. In particular, Members should never disclose or use exempt or confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else. It is likely that such disclosure and/or inappropriate use of information would be a breach of the Council's Code of Conduct for Members.
- 12.8 Any exempt or confidential information provided to Members should be clearly marked as such prior to its provision.
- 12.9 Further advice regarding Members' rights to inspect Council documents may be obtained from the Chief Executive, Head of Legal and Democratic Services or Democratic Services Manager.

13 PUBLIC RELATIONS AND PRESS RELEASES

- 13.1 By law the Council is prohibited from publishing material which appears to be designed to affect public support for a political party. Press releases are written by Officers but they may contain quotations from an Executive Member and will where practicable include comments from other party spokespersons also. Such Press releases are, however, issued on behalf of the Council and it would not, therefore, be appropriate to include overtly party political comment. The aim will be for all press releases to be objective, factual and informative.
- 13.2 Press releases dealing with explicitly party political issues should be channelled through the relevant political party.
- 13.3 The Council will abide by the National Code of Recommended Practice on Local Authority Publicity.

14 MEMBER SUPPORT SERVICES

- 14.1 The Council provides a range of support services, including stationery, typing and postage to enable Members to carry out their duties, including direct secretarial services to the Mayor and Deputy Mayor and Leader and Deputy Leader. These may only be used on Council business. They may not be used for party political work of any kind. Members should not ask Officers to type, photocopy or otherwise process party political material or material relating to a Member's other private or social activities or interests, including parish councils of which the Councillor concerned may also be a member.
- 14.2 Requests for typing, photocopying or other similar services for Members in connection with their Council duties should be made to the Member Services Officer or the Democratic Services Manager, not directly to other members of staff.
- 14.3 The Council also provides computer and associated equipment to Members to assist them in their duties as Councillors. Such equipment can also be used for personal business, within the confines of the Council's Computer Security Policy which has been supplied to all Members who have been provided with computer equipment.

15 ADVICE AND CORRESPONDENCE

- 15.1 ~~Unless a Member and or Officer requests confidentiality, it is to be assumed that correspondence between a Member and an Officer is not confidential and may be shown to others (with the exception of the Member support services referred to in paragraph 14 above.) If, in an Officer's view, correspondence between an individual Member and an Officer is of interest to other Members, to keep them fully informed, it should be made clear to the original Member that copies have been sent to other Members.~~ *agree otherwise, all advice, discussion and correspondence between a Member and an Officer will remain confidential.*

16 UNRESOLVED ISSUES AND AMENDMENTS TO THIS PROTOCOL

- 16.1 If there are any issues of concern which are not dealt with by this protocol, then the relevant Member or Officer may discuss the matter with the Chief Executive or the Head of Legal and Democratic Services with a view to advice being provided.

16.2 Should any Member or Officer wish to suggest an amendment to this protocol, he/she is asked to contact either the Head of Legal and Democratic Services or Democratic Services Manager for further advice.