

G - Member / Officer Protocol 2014

Given the variety and complexity of relations between Members, Co-opted Members and Officers, this Protocol does not try to cover everything or to be prescriptive in its application. General guidance is offered on issues that most commonly arise or cause concern. You should, however, seek assistance from your line manager in relation to any specific issue which is not covered by this Protocol.

In the unlikely event that there is any irreconcilable disagreement in the interpretation of this Protocol, the opinion of the Chairman of the Standards Committee (or the Vice-Chairman if the Chair is unavailable or is unable to act) will be final.

Definitions in this document:

- Senior Leadership Team (SLT) posts are detailed in Section 1, Part 1 of the Constitution.
- Members: refers to elected members only
- Co-opted Members: refers to both voting and non-voting non-elected members of the Council's committees.
- Vires: an action that is beyond the powers as detailed in a law

1 – General obligations of Members and Co-opted Members

1.1 Code of Conduct

1.1.1 Members and Co-opted Members must observe:

- the Council's Code of Conduct; and
- the Seven Principles of Public Life as set out as an Appendix to the Code of Conduct

whenever acting in an official capacity or giving the impression that they are so acting in that capacity.

1.2 Reasonable Conduct

1.2.1 Members and Co-opted Members have a duty to act reasonably and when taking decisions, must:

- take into consideration all relevant matters and disregard anything which is not relevant;
 - meet the Council's Constitutional requirements;
 - provide lawful, reasonable and rational reasons for their decisions.
- 1.2.2 Members who control the Council's assets and finances are in a position of particular trust and have a fiduciary duty to act in the best interests of the Council and the public interest.

2 – Principles Underlying Member / Co-opted Member / Officer relationships

2.1 General

2.1.1 Members, Co-opted Members and Senior Officers have distinct yet complementary roles that often bring them together to work as a team. This is most clearly seen in the Council Leader and Chief Executive relationship. They must demonstrate political and professional leadership respectively and accountability for their actions. The Cabinet Member as the lead for a particular service area: defines the political priorities, develops the local vision and policy and exercises delegated decision making responsibilities. Senior Leadership Team officers as the leads for their service areas are accountable to the Cabinet Member and the Council for the day-to-day management of service delivery within accordance the policies and decisions made by Members and Co-opted Members and for ensuring the implementation of Member decisions. In doing so the lead Officer provides a clear line of accountability, promotes leadership, and secures the provision of appropriate services.

2.2 Mutual respect

2.2.1 Officers, Members and Co-opted Members should treat each other with courtesy and mutual respect for the respective roles which each discharges.

2.3 Impartial Officer advice

2.3.1 Members and Co-opted Members must respect the political impartiality of Officer advice in general, and in particular must have regard to the professional advice provided by statutory and key post-holders as follows: the Chief Executive as Head of Paid Service, the Section 151 Officer (Finance & Performance Director), the Monitoring Officer (Strategic Manager, Governance & Risk) , the Director of Social Services (Lead Commissioner Adults and Health) and the Chief Education Officer/Director of Children's Services (Lead Commissioner

Children and Learning), the County Solicitor, the HR & OD Director, and the Scrutiny Officer (Service Manager – Governance).

- 2.3.2 Members and Co-opted Members must respect the professional independence of Officers and must not compromise or attempt to compromise, the impartiality of anyone who works for or on behalf of the Council. Members and Co-opted Members must allow Officers and those working on behalf of the Council to carry out their duties in a neutral, non-biased and non-partisan way. A Member/ Co-opted Member may appropriately challenge the advice of an Officer (this should usually be done at a senior level) but they must not pressurise the Officer to change their advice if, in the opinion of that Officer, doing so would prejudice his / her professional integrity.
- 2.3.3 Members and Co-opted Members must consult the Monitoring Officer, the County Solicitor and the Section 151 Officer where they have any concerns about *vires*, illegality, maladministration, financial impropriety or probity in relation to the decision making process or where they have any concerns as to whether a particular decision is, or is likely to be, outside of the policy or budget framework.
- 2.3.4 Members and Co-opted Members who fail to respect the requirements of paragraphs 2.3.1 to 2.3.3 may be subject to a complaint about a potential breach of the Code of Conduct.

2.4 Inappropriate use of position

2.4.1 In summary (and para 2.3.2 above refers):-

- The only circumstances where Members and Co-opted Members can instruct Officers is through formal decisions taken by Members and Co-opted Members and formal delegation of authority to Officers to act. In normal circumstances delegated authority should only be given to Officers at SLT level.
- Officers below Senior Leadership Team level work to the instructions of their Senior Officer and not individual Members of the Council.
- Members and Co-opted Members should normally direct requests for information or a service through Officers at SLT level.
- Members and Co-opted Members must respect the reporting lines of Officers. If a Member or Co-opted Member has any concerns about the actions of an Officer then they should discuss the matter with an appropriate Senior Officer.
- Members and Co-opted Members must not attempt to require Officers to act in a way that is unlawful, unconstitutional, or which would be likely to amount to, or result in, maladministration.

2.5 Personal and Family Relationships

- 2.5.1 Close personal familiarity between a Member and an Officer should be avoided as it can damage the relationship and prove embarrassing to other Members and Officers. It could also damage the integrity of the Council. Any family relationships (e.g. parent/child; spouse/partner) between Officers and Members must be disclosed as soon as reasonably practicable to the Chief Executive who will then decide how far this needs to be disclosed to others.
- 2.5.2 A Member should not take up a decision-making role where it would give them decision-making responsibility for any Officer to whom they are closely related so as to avoid any perceptions or accusations of preferential treatment or a lack of objectivity.
- 2.5.3 If a Member or an Officer is in any doubt about what is appropriate or not in relation to 2.5.1 or 2.5.2 above then they should seek the advice of the Chairman of the Standards Committee and / or the Chief Executive.

3 – Role of Officers - (in respect of relationships with Members)

3.1 Role of SLT

- 3.1.1 SLT has an important role in providing leadership to the organisation and Officers of the Council, preparing the Policy and Budget Framework for consideration by the Leader / Cabinet / Council and directing and monitoring the performance of the organisation in applying the approved policies / budget.
- 3.1.2 SLT Officers have a particular responsibility to the Leader, Cabinet Members and Cabinet Support Members in respect of:-
- preparing the Medium Term Financial Plan, the Business Plan, the Asset Management Plan, the Performance Plan and other key plans and strategies for consideration by the leadership;
 - ensuring services are delivered and functions discharged in accordance with the relevant legislation, the Council's Constitution and the directions of the Leader / Cabinet; and
 - referring issues of concern to the Leader / Cabinet for determination. Key Officers from SLT have regular private meetings with the Leader and Cabinet members to progress key strategic policy and decision-making issues.
- 3.1.3 SLT Officers are also responsible to the Opposition Leader and Opposition Group Spokespersons (and their Support Members) for briefing them on a regular basis about corporate and service matters. This is done on a one to one basis and through regular private

meetings. These facilities may be extended on occasion to include the other minority party Leaders.

3.2 Operational management

3.2.1 Officers implement the decisions of Members and will ask for guidance on implementation of the decisions, as required.

3.2.2 Officers must observe the Standards of Conduct required of them by the Council.

3.3 Provision of support to Members and Co-opted Members

3.3.1 Officers provide support services and resources to Members as agreed by the Council to enable them to undertake their various roles. This includes the provision of direct Personal Assistant support to the Leader, Cabinet and Chairman of Council which is provided on a part-time basis.

3.3.2 The Council can only lawfully provide support services (such as IT provision and the use of certain rooms in County Hall) to Members and Co-opted Members for the discharge of their Council duties. These support services can only be used for political purposes where that use specifically relates to delivery of the Council functions or any office to which the Member has been elected or appointed. Council resources must not be used for party political campaigning activity or for private (including business) purposes.

3.4 Delegating decision making to Officers

3.4.1 Members may delegate decision making authority to Officers to act on their behalf. However, Officers cannot set or amend Council policy other than to facilitate the smooth running of procedures and processes and must abide by the requirements of the Constitution and in particular the Council, Cabinet and Officer Schemes of Delegation.

3.4.2 An Officer must have regard at all times to the fact that he or she is employed by the County Council as a whole and not by an individual member or political group.

3.5 Officers – giving professional advice

3.5.1 Officers will give such professional advice to Members and Co-opted Members as is necessary or desirable, recognising the different needs for advice they may have dependent on their role.

4 – Specific Member Roles / Officer Relationships

4.1 Leader & Chief Executive / Senior Officers

4.1.1 The Leader gives political direction and leadership to the Council. The role encompasses:

- Setting standards of conduct and expectations for his / her group of Members and resolving any instances of misconduct by a member of that group that has been referred to him/her from the Standards Committee.
- Appointing his/her Cabinet and allocating responsibilities to Cabinet Members and Officers under the Cabinet Scheme of Delegation
- Encouraging all Members to play a full part in the running of the Council and being effective community leaders.
- Working closely with the Chief Executive to ensure proper co-ordination of the Council's leadership and management. The Leader and Chief Executive have ultimate responsibility for the corporate working of the Council. They also have responsibility for ensuring that overall partnership working is effective.

4.1.2 The Chief Executive is responsible to the Leader for the corporate, strategic and operational management of the County Council.

4.1.3 The Council will provide sufficient support and resources to enable the Leader to perform his / her role effectively.

4.2 Cabinet Members and Officers

4.2.1 Cabinet Members will develop the expertise, knowledge of and responsibility for the service(s) allocated to them by the Leader. This includes taking decisions delegated to them by the Leader within the Cabinet Scheme of Delegation. The nature of this role means that Cabinet Members will work closely with their relevant SLT Officer(s) particularly on policy development, decision-making, service delivery and performance issues.

4.2.2 For their area of responsibility, the Cabinet Member provides political focus and leadership for their Political Group and is the lead spokesperson and 'first' political contact for Opposition Group Spokespersons, other Members of Council, the public, press and Officers.

4.2.3 The Council will provide sufficient support and resources to enable the Cabinet Member to perform their role effectively.

4.3 Leader of the Opposition and Officers

4.3.1 The title 'Leader of the Opposition refers to the Leader of the largest political group in opposition on the Council.

4.3.2 The office-holder has several key roles including:

- supporting the democratic process by ensuring that the activities of the Administration are appropriately examined, contributed to and, where considered necessary, challenged through mechanisms provided for in law and within the Constitution;
- bringing forward alternatives to policies or operational decisions proposed by the Administration, as appropriate;
- giving political direction and leadership to their group of Members, setting standards of conduct and expectations and resolving any instances of misconduct by a member of that group referred to him/her by the Standards Committee
- liaising with the Leaders of other minority political groups on the Council.

4.3.3 The office-holder should establish effective working relationships with particularly the Chief Executive and Senior Leadership Team officers and other Officers, as appropriate.

4.3.4 The Council will provide appropriate support, resources and advice to enable the office-holder to perform their role effectively.

4.3.5 In addition, other minority Group Leaders will play a similar role as set out in paragraph 4.3.2 above in respect of the members of their own groups and paragraphs 4.3.3 and 4.3.4 also apply.

4.4 Opposition Group Spokespersons and Officers

4.4.1 These positions are held by Members of the largest opposition political group on the Council and provide an effective political counter-balance to Cabinet Members.

4.4.2 In respect of the activities agreed for the office, the office-holder provides political focus and leadership for the Group and is the lead spokesperson and 'first' political contact for Cabinet Members, other Members of Council, the public, press and Officers.

4.4.3 The office-holder should establish and maintain effective working relationships with Senior Leadership Team officers and other Officers.

4.4.4 The Council will provide appropriate support and advice to enable the office-holder to perform their role effectively.

4.5 Scrutiny Members and Officers

4.5.1 Members of the Council's Scrutiny Committees shall:

- obtain the advice of the Monitoring Officer or County Solicitor where they consider there is doubt about the vires for a decision or they consider a decision of the Leader, Cabinet, Cabinet Member or an Officer might be outside the policy and / or budget framework.
- when considering calling Officers to give evidence, consult the relevant SLT Officer to identify as to the most appropriate Officer to attend.
- when asking Officers to give evidence, confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but officers must not be asked questions relating to political views.
- where they consider it appropriate, ask Officers to explain and justify advice given to Members prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution.
- not question Officers in such a way as to be in breach of the Council's policy on harassment or the Members' Code of Conduct nor deal with matters which are of a personal or disciplinary nature.

4.5.2 Officers shall:

- maintain political impartiality at all times when commenting on the Cabinet's / Council's policies and actions.
- be prepared to explain and justify advice given to Members of the Cabinet and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution.
- ensure that appropriate Officers appear before the relevant County Council body.

4.6 Other Committee Chairmen and Officers

4.6.1 This section applies to all the Council's Committees, including the Regulation Committee, and the Standards Committee.

4.6.2 The Chair, other Members and Co-opted Members of those Council bodies shall:

- be bound by the same provisions set out in section 1 when sitting as a Committee/Council body; and

- enable County Council Officers to present any report and give any advice they wish.

5 – Officer Relationships with Party Groups

5.1 Officers - dealing with requests for information

- 5.1.1 The Council has adopted the position at law in relation to access to information for Members and Co-opted Members. More detailed guidance is available upon request to the Monitoring Officer or the County Solicitor.
- 5.1.2 This allows all Groups to develop policies and plans on the basis of officers providing information on a confidential basis to their Group, providing that the information is readily accessible, does not entail significant additional work and does not entail the release of information which is confidential or exempt.
- 5.1.3 Groups are expected to give reasonable notice of requests for information and to have regard to the cost of producing any new detailed information.

5.2 Officers attending political briefings

- 5.2.1 Senior Officers may, on request, attend a political group meeting to give advice and answer questions but must not stay for, or participate in, any part of the political discussion. Where such a meeting includes persons who are not Members of the County Council, then particular care will be taken by the Officer as to his / her contribution to the meeting as these persons are not bound by the Member's Code of Conduct (in particular, provisions concerning the declaration of interests and confidentiality). Officers may therefore be unable to provide the same level of information or advice as they would to a Members only meeting.

6 – Members in their Divisional Role and Officers

- 6.1.1 When acting in their Division role, Members:
- Need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on officer time.
 - Should recognise the need for Officers' to seek authorisation, where required, from Senior Officers or Members for additional work requested by individual Members.

7 – Complaints about Officers or Services

7.1 Members and Co-opted Members criticising reports / actions of Officers

- 7.1.1 Members and Co-opted Members have the right to criticise reports or the actions taken by Officers, but they should always:
- avoid personal attacks;
 - ensure that criticism is constructive and well-founded; and
 - ensure that criticism is conveyed in such a way and a place that it is not disrespectful, harassing or bullying of the Officer.

7.2 Respecting each other's roles

- 7.2.1 Members and Co-opted Members should be particularly careful that that they do not undermine, or are disrespectful, harassing or bullying of, Officers at meetings or in any public forum (including council offices).
- 7.2.2 Similarly, Officers must respect the roles and rights of Members and Co-opted Members and not undermine, or be disrespectful of Members and Co-opted Members particularly at meetings or in any public forum (including council offices).

7.3 Process for Members and Co-opted Members to complain about Officers and be informed of action taken

- 7.3.1 Complaints about Officers or Council services should be made to the relevant Senior Leadership Team officer. Within three days, s/he will:
- acknowledge your complaint, and
 - say if action will be taken, or
 - say how long it will take to investigate the complaint.
- 7.3.2 Members and Co-opted Members have a right to know if action has been taken to address a matter, but they must not, either:
- influence, or seek to influence, the level of disciplinary action to be taken against an Officer, nor
 - insist (nor be seen to insist) that an Officer is disciplined.
- 7.3.3 Members and Co-opted Members have a right to be told the outcome of any disciplinary case, but have no entitlement to detailed information about the hearing or its conduct aside from those Members of the Officer Appeals Committee where specific cases are considered by the Committee.

- 7.3.4 If a Member or a Co-opted Member is not satisfied with the action taken to deal with the complaint then he / she may refer the matter to the Chief Executive.

8– Members and the Media

8.1 Council press release rules

- 8.1.1 All Council press releases should be in accordance with the Council's agreed Media Guidelines and must be issued through the Council's Communications and Marketing Team.

8.2 Avoiding party political content

- 8.2.1 Council press releases should not contain anything of a party political nature. Regard must be given to relevant legislation and guidance concerning publicity issued by Councils, especially around election time in the form of the Somerset Election Protocol

8.3 Political press releases

- 8.3.1 Members or political groups have the right to issue political press releases but these shall not be prepared or issued using County Council resources of any kind.

8.4 Handling the Media

- 8.4.1 Lead Members with special responsibilities will receive training in handling the media and shall receive additional support as required and an appropriate for their roles from the Communication and Marketing Team.

9 – Correspondence

9.1 Use of paper

- 9.1.1 The relevant paper containing the Council's corporate identity image must be used for all correspondence written on behalf of the Council. When Members are writing in their capacity as a Member they must make it clear whether they are writing on behalf of the Council or as the divisional Member. Members must never use paper containing the Council's corporate identity image for personal, party political or business matters.

9.2 Correspondence between Members / Officers

- 9.2.1 Correspondence from an individual Member to an Officer will not normally be copied by the Officer to any other Member unless it is the intention of the Member that it should be so (e.g. representations made in relation to a planning application). Where, exceptionally, and having sought the advice of a Senior Officer, it is considered appropriate to copy the correspondence to another Member, then the original Member should be given prior notification and be told to whom it is proposed to be copied and the reasons for this proposed course of action. The decision of whether another Member should be sent the correspondence is ultimately for the Chief Executive to take.
- 9.2.2 Particular care needs to be taken with email correspondence where the Council's use of email policy should be followed. For example, when dealing with constituency email correspondence be careful when copying emails when using 'cc' or 'bcc' or 'reply to all'. Only copy your email to those people that really need to see it, don't inadvertently forward confidential information and don't forward a constituent's email to others even within the Council without having first obtained their consent.

10 – Complaints about Members, Co-opted Members and Officer Conduct

- 10.1. Any person (Member, Officer or member of the public) may raise a complaint about a Member or Co-opted Member of a Council Committee where they believe that there may have been a breach of the Members' Code of Conduct. This may be done by contacting the Monitoring Officer or the County Solicitor who will advise the process to be followed as set out in the Constitution.
- 10.2 The process for members to complain about Officers conduct is set out at 7.3 above.
- 10.3 Members and Officers should ensure that they are aware of and apply the Council's Whistleblowing Policy as necessary.

11 - County Council Election

- 11.1 Particular rules apply to Member, Officer and Election Candidates behaviour around County Council quadrennial elections and by-elections. These rules are detailed in the Somerset Election Protocol.

12 – Further Advice from the Chief Executive / Monitoring Officer / County Solicitor

- 12.1 Further advice on the interpretation of this protocol is available from the Chief Executive, Monitoring Officer or from the County Solicitor. Advice on any issue relating to Member/Officer relations which is not covered

in this Protocol may also be raised with the Chief Executive, Monitoring Officer or County Solicitor.