

Draft Protocol on Relationships between Political Groups, Elected Members and Officers

1. Introduction

The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another; to develop co-operative relationships between Members; assist with Ward management; and provide a framework within which members of Political Groups within the Council are able to operate individually and collectively.

The protocol is informed by the Councillors' Code of Conduct (the Code) which provides that Members must respect all other Members and all Council employees and the role they play, treating them with courtesy at all times. In addition, the Code requires Members to follow the Protocol for Relations between Councillors and Employees which forms Annex A to the Code. The principles of the code and this protocol should be applied to any informal dealings with the Council's employees, party political groups, and others, no less scrupulously than at formal meetings of the Council and its committees. The protocol also reflects the Code of Conduct for Employees.

In agreeing this protocol, Political Groups will seek to ensure that individual members of their Group will comply with its provisions. Where a breach of the protocol occurs, or in the case of a dispute between Elected Members, the Political Group shall attempt to address the matter with the Member(s) concerned and take such measures as it considers appropriate to prevent a recurrence. Political Groups should also consider how they may wish to address complaints regarding alleged breaches of the Code with a view to reaching a satisfactory resolution of the complaint that would prevent a referral to the Standards Commission.

2. Members and Officers

In line with the Code, it is important that Members and Officers have a mutual trust and respect, with neither taking unfair advantage of their position.

3. Officer Advice to Party Groups

Members of local authorities are organised, generally, into Party Groups, and it is common for those Groups to consider matters of Council business before the matters are considered by the relevant Council committee. Party Groups may ask Officers to support and contribute to these discussions.

The support provided by Officers can take many forms, ranging from a briefing meeting with a Chair before a committee meeting, to a presentation to a full Party Group meeting. Officer support is likely to be in

most demand from whichever Party Group(s) form the Administration, but it is available to all Party Groups.

People involved in this process must understand certain points, including the following:

- Officers must just provide information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. Officers are not expected to be present at meetings, or parts of meetings, when matters of party business are discussed.
- Party Group meetings are part of the process for making Council decisions, but they cannot make decisions on behalf of the Council. Conclusions reached at these meetings are not Council decisions.
- Where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this does not replace all information and advice the relevant Committee may need when the matter in question is considered.
- Officers who are involved in providing information and advice to a party group meeting, which includes people who are not Members of the Council, need to take special care. These people will not have to follow the Code (in particular, the conditions concerning declaring interests and confidentiality), and for this, and other reasons, Officers may not be able to provide the same level of information and advice as they would to a Member-only meeting.
- Officers must respect the confidentiality of any Party group discussions at which they are present, and must not pass on details of any discussion to another Party group without prior approval. Any cases of difficulty or uncertainty in this area should be raised with the Chief Executive, who will discuss them with the relevant Group leader(s).

4. **Support Services to Members and Party Groups**

The only way Officers can legally provide support services to Members is to help them in their role as Members of the Council. These support services must only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes. However, the Code recognises that there may be occasional personal use of Council-provided facilities and indicates that when permitted by the Council's policies, incidental persons' use of facilities is permissible provided that this is authorised by the Council. Paragraphs 3.24 and 3.25 of the Code deal with the use of Council facilities.

5. **Members' Access to Information and to Council Documents**

Members are free to ask any Council services for any information; explanation and advice (about that service's functions) that they may reasonably need to help them in their role as Members of the Council. This

can range from asking for general information about some aspect of a service's activities, to asking for specific information on behalf of a constituent (although data protection legislation may prevent Members from accessing information about third parties, where Members are not acting on behalf of the third parties).

Members have the option to make Freedom of Information (FOI) requests under the Freedom of Information (Scotland) Act 2002. Members have the same legal right to access information held by the Council as the general public under this Act. However, Members should be aware of the statutory timescales for making the information requested available (20 working days).

Members have a legal right to inspect any Council document which contains material related to any business which is going to be discussed at a Council meeting. This right applies no matter whether the Member is a member of the Committee concerned or not, and covers reports which are going to be presented at the meeting, and any relevant background papers. This right does not necessarily apply to documents relating to certain items. The items in question are those which contain exempt information relating to:

- Employees
- People who use Council property
- People applying for grants and other services
- Caring for children
- Contract and industrial relations negotiations; and
- Advice from Council and criminal investigations.

These exemptions are listed in the Local Government (Scotland) Act 1973 (as amended). The Freedom of Information (Scotland) Act 2002 does not replace the 1973 Act. However, many of these exemptions will now be subject to a 'public interest test'. This means that exempt reports are not automatically exempt from FoI and there may be limited circumstances where an exempt item needs to be released under the 2002 Act.

Finally, any Council information provided to a Member, including anyone's personal information, must only be used by the Member for the purpose for which it was provided. Personal information should only be used for authorised purposes, which means that Members must be careful how they handle this. The importance of all confidential information which Officers provide to Members is emphasised in the Code at paragraphs 3.21 to 3.23.

6 Relationships between Officers and Chairs

It is clearly important that there should be a close working relationship between the Chair of a Committee and senior Officers of any service which reports to that Committee. However, these relationships should never be allowed to become so close, or appear to be so close, as to bring into question Officers' ability to deal with other Members and other Party Groups fairly.

While the Chair of a Committee may be consulted as part of the process of drawing up the agenda for a future meeting, it must be recognised that in some situations a Chief Officer will have a duty to present a report on a particular matter. Similarly, a Chief Officer will always be fully responsible for the contents of any report presented in their name. Any issues arising between a Chair and a Chief Officer in this area should be referred to the Chief Executive.

In relation to action between meetings, it is important to remember that the law only allows for decisions to be made by a committee or an Officer. The law does not allow a Chair or any other single Member to make decisions. When decisions are made to take action between meetings, it is the Officer, rather than the Chair or Member, who takes the action and is responsible for it.

Officers within a service must answer to their Director. While Officers should always try to help a Chair (or indeed any Member), they must not go beyond whatever authority they have been given by their Director or by the Council's Scheme of Delegation.

7 Correspondence

Correspondence between an individual Member and an Officer should not normally be sent to any other, unless specifically authorised by the Member or authorised by implication by the original correspondence being copied to the Member or otherwise. If it is necessary to send a copy of the correspondence to another Member, this should be made clear to the original Member. In the copying of any correspondence, the Officer concerned must have particular regard to the issue of confidentiality and ensure that the confidentiality of the Member or any other party is preserved. The confidentiality of any information held by the Council is subject to its duties under the Freedom of Information (Scotland) Act 2002.

8 Meetings of the Council and Committees

The procedures for meetings of the Council and its committees are governed by the Procedural Standing Orders. As well as procedural matters, Standing Orders also include a number of matters regarding the conduct of Members, such as how to declare an interest and the consequences of disregarding the authority of the Chair. Members should also follow the basic rules of good conduct:

- During all meetings of the Council and its committees, Members should address in the first instance their fellow Members by their title of 'Councillor' and their surname.
- Members must never use offensive or inappropriate language, and should treat their fellow Members and Officers with respect.

- Members who want to leave a meeting (other than for any comfort break or after they have declared an interest) must tell the Chair before they leave the meeting.
- Any Member who wants more information about the Committee reports should contact the relevant Director/author prior to the meeting.
- While it is expected that senior Officers and Chairs will work closely together, it is important to understand that an Officer's job is to serve all the Members and not just the Chair. The Officer must be, and be seen to be, impartial in their dealings with the committee. It is important that Chairs do not ask Officers to behave in any way that might jeopardise this impartiality. Officers must never be asked to give an opinion on matters of policy.
- Democratic Services Officers attend meetings to take an independent Minute of that meeting and to provide procedural advice as required. At meetings, if a rule in Standing Orders is open to more than one interpretation, the Democratic Services Officer should state that this is the case, but should not be called upon to recommend which interpretation the Chair should favour. No Democratic Services Officer should be asked how to circumvent the procedures set down in Standing Orders.

9 **Responsibilities of Elected Members**

Members have the responsibility:

- To uphold the general principles enshrined in the Code.
- To treat each other and all employees of the Council with respect and dignity.
- To respect the authority of the Chair at any meeting of the Council or its committees and comply with their rulings.
- To respect the confidentiality of information which has not been made public, not to breach any such confidences and to adhere to any embargoed agreements or confidential or sensitive issues.
- To respect the limitations on the disclosure of information because of the requirement of client confidentiality placed on some employees of the Council.
- To participate in training and other development events organised on their behalf by the Council.
- Not to raise matters relating to the conduct or capability of employees in public.
- When performing the duties of Convener or chairing a committee or other meeting, to apply Standing Orders impartially and to refrain from actions or statements that might bring their impartiality into question.

10 **Responsibilities of Political Groups**

Political groups have the responsibility not to require individual Members to vote on party lines in respect of decisions where group decision-making would be unlawful, contrary to the Code, or against any Council approved guidance; in particular on planning applications, specific regulatory matters, employment issues affecting individuals, all matters coming before the Audit and Scrutiny Committee, or any matter which requires to be determined on the basis of evidence given.

11 **Constituency Matters**

All Elected Members within each multi-member Ward have a duty to be accessible to their constituents and to represent their interests conscientiously. The wishes of constituents and/or the interests of a Ward are to be respected at all times.

All Elected Members have equal formal and legal status. Each Ward is represented by 3 or 4 Members. No Elected Member should identify themselves as the sole representative or sole member for a Ward. Members within each multi-member Ward are all of equal status and each represents the whole of their Ward. Members must not describe themselves as representing (or having a particular interest in) only part of the Ward for which they were elected.

In general, an Elected Member should not deal with a matter relating to a constituent or constituency issue out-with their own Ward, although there may be circumstances when this is relevant e.g. a specific request from a constituent, or a political manifesto item.

Members' contact details (but not their home addresses or personal phone numbers) will be provided through a number of sources, including the Council's website. Members of the public calling the Council to find out who their local Member is, will be advised by staff of the names of all the Members for a particular Ward and will offer to provide contact details for all – or if requested for a particular Member. Members' details will be provided in alphabetical order by surname. Members of the public calling for a particular Member will be put through only to the Member concerned. If the Member is unavailable, the person calling will be given the option of leaving a message. Only if the caller asks, will the call be transferred to another Member.

12 **Dealing with Individual Constituent's Cases**

The basic principle is that the interests and wishes of the constituent are the primary consideration. An individual constituent has the right to approach any of the Elected Members representing his/her Ward. A constituent may approach a particular Elected Member on the basis of

location, political party or some other basis – the choice is entirely up to the individual constituent.

Members dealing with constituents may be given personal information and must ensure that such information is handled sensitively and securely. Members are each Controllers of the personal data they process for constituency business. Further advice and specific guidance for Elected Members on this can be obtained from the Information Commissioner's Officer (www.ico.gov.uk).

In the event of a Member receiving inappropriate, persistent, unreasonable or vexatious enquiries from a constituent by whatever means, the Member may decide to restrict further contact to written communication or terminate contact. Further advice on individual cases can be obtained, if required, from the Chief Legal Officer.

Members must not notify other Members representing the Ward of enquiries which they receive from constituents, or copy constituents' correspondence to them, without the consent of the constituent concerned, as that would breach the confidential nature of the relationship between constituent and Elected Member. Members should be sure that they have a constituent's consent to the use of their personal information in dealing with a case. It may be that for a particular case of circumstance, a Member wishes to ensure that they have written consent.

All Members within a particular Ward may agree amongst themselves to allocate responsibilities on the basis of subject matter. That would always be subject to the right of an individual constituent to expect a Member of their choice within their Ward to progress a particular enquiry. A Member may suggest that a constituent refer a specific enquiry to another Elected Member. Such a referral should only be made with the consent of the constituent who may request that the enquiry be dealt with by the Member of their choice.

Members may be approached by a constituent in relation to dealings with another statutory body, such as the Health Board or Scottish Water. Each of these other statutory bodies is likely to have their own arrangements for progressing enquiries and dealing with complaints. Details of the relevant contact points will be provided to Members on request.

13 Dealing with Ward Issues

Any Member is entitled to take an interest in or take up a matter affecting the Ward for which they were elected. Members are likely to have a greater impact where they work collectively for a common cause, as that is likely what their constituents would expect. That may not be possible in some instances because of perfectly legitimate political differences but Members may wish to contact one another, as a matter of courtesy, where

they are involved or planning to become involved in a major local issue. Any exchange of information must comply with data protection legislation and, in particular, Members should ensure that any constituent's personal details are not normally shared, in order to safeguard the constituent's right to privacy.

When an Officer writes to residents regarding matters of general concern in an area, the portfolio holder will be briefed and all Ward members will be sent copies of the correspondence e.g. traffic calming measures, bin collection cycles, etc. When a Member has been involved in a private matter affecting one household then the relevant Officer should keep the Member informed of significant developments until the matter is concluded. Where an Officer is calling a meeting with Ward members to discuss a Ward issue which is of a non-personal nature, the Officer will invite all Ward members to allow them to be briefed on the issue.

14 Dealing with Local Organisations

Boundaries of local organisations, including Community Councils, are unlikely to be coterminous with multi-member Ward boundaries. Some organisations will straddle two or more multi-member Wards. It is likely that Members will receive cross-boundary enquiries. These enquiries may be dealt with in conjunction with Member(s) from another Ward(s). However, as with enquiries from individual constituents, information concerning cross-boundary enquiries should only be shared if the express approval is given by the organisation concerned (unless the information is of a general nature), and the organisation may request that the enquiry is dealt with only by the Member(s) of their choice.

15 Rights of Elected Members

Members have a right to be consulted by Officers on specific matters of interest to them as local Member, e.g.:

- Whenever a public meeting is organised by the Council to consider local issues, all Members representing the Ward(s) affected must be invited to attend. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the local Members must be notified and, where appropriate, the views of the Members should be requested.
- Members must be consulted on all significant new projects or initiatives in their Ward at the planning stage, in order that their views may be taken into account.

Members must be advised of any major work being undertaken by the Council in their Ward, or where it is known, by any other statutory undertaker or utility company, where this work is likely to inconvenience the public for any significant length of time. Subject to any requirements imposed on the Council by law, Members must be consulted on any other

issues which are likely to be of substantial or significant interest to the local community in their Ward.

Members have the right and as a matter of courtesy to be informed of visits to their Ward by Ministers of the Scottish Government or UK Parliament, where the visit is in connection with one of the Council's responsibilities. Members only attend such visits when invited to do so by the Ministers.

Any Elected Members in whose Ward an official opening of Council premises is to take place should be invited to attend the opening.

Members have the right to receive induction training, and to the continuing development of their skills as a Member. Members should seek to identify their development needs through a Personal Development Plan (PDP). Councillors also have the right to access online training resources delivered via the Improvement Service to allow them to develop their skills as a Member.

Subject to any decisions by the Council on the services to be provided to the office bearers of the Council or otherwise, Members have the right to parity of service from the Council and its employees.

Elected Members who are not members of political groups have the right to be consulted on matters that are sent to all political groups for consultation and to be advised of information that is being communicated to all political groups.

16 Rights of Political Groups

Political Groups have the right to be notified of any major policy initiatives by the Scottish or UK Governments. They should also receive and be timeously consulted on major consultation papers by the Scottish or the UK Governments. Appropriate cross-party representation should be present at civic events (including the official opening of Council buildings) organised by the Council.

17 Rights of Political Group Leaders

Political Group Leaders have the right to be informed/consulted in confidence by the Convener, Leader of the Administration and/or the Chief Executive on major or sensitive issues which might impact on the Council's interests or the Council's reputation. Political Group Leaders must respect the confidence of such information.