
Cabinet Member for Policing and Equalities
Council

26 October 2017
5 December 2017

Name of Cabinet Member:

Cabinet Member for Policing and Equalities — Councillor Abdul Khan

Director Approving Submission of the report: Deputy Chief Executive Place

Ward(s) affected: All wards

Title: Draft Member/Officer Protocol

Is this a key decision?

No

Executive Summary:

In 2016 the Acting Monitoring Officer conducted a review of governance arrangements at the City Council in the light of two critical public interest reports which were issued in respect of other councils. As a result of that review, officers identified that it would be of benefit for the Council to approve and adopt a Member/Officer Protocol. The purpose of the Protocol is to set out for both members and officers what is expected of them in their respective roles and what they can expect from each other.

A draft Protocol was approved by Ethics Committee on 14 September 2017. As the Protocol would be included in the Constitution, it was considered by the Constitutional Advisory Panel on 9 October. The Panel agreed to recommend the approval of the Protocol to the Cabinet Member subject to an amendment to paragraph 8.2.2 of the Protocol. The suggested change is shown in the draft Protocol in the Appendix. The Panel also recommended that the contents of the Protocol should be publicised to both officers and members once approved.

This report brings forward the draft Member/Officer Protocol for the Cabinet Member to consider. If approved, it will need to be agreed by full Council.

Recommendations:

Cabinet Member is recommended to:

(1) Approve the draft protocol as drafted subject to the amendment of paragraph 8.2.2;
and

(2) Recommend to full Council that they agree to its being included in the Constitution.

Council is recommended to:

(1) agree to the inclusion of the Member /Officer Protocol in the Constitution.

List of Appendices included: Draft Member Officer Protocol

Other useful background papers: None

Has it been or will it be considered by Scrutiny? No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

Constitutional Advisory Panel, 9 October 2017

Will this report go to Council? Yes, 5 December 2017

Report title: Draft Member/Officer Protocol

1. Context (or background)

- 1.1. In July 2016 the Ethics Committee considered reports that had been published in connection with two other councils which had raised concerns about, among other things, governance in those councils. In one case both councillors and officers were heavily criticised in terms of political interference in day-to-day management of some services, bullying and intimidation and involvement in matters where councillors and officer had interests. Some officers were also criticised for allowing themselves to be bullied and coerced, failing to report concerns and failing to secure adequate reporting of concerns.
- 1.2 In the other case a public interest report by external auditors was published into a number of matters of concern at another council. These included failures of governance in the management of major projects and in relation to member conduct. In particular the report concluded that members were too involved in operational matters in relation to major projects and inappropriate interventions by members in licensing matters. Officers were found not to have ensured that some council actions were legal, allowing decisions to be taken at too low a level or by members who did not have power to do so and blurring of member and officer roles.
- 1.3 The then Acting Monitoring Officer undertook a review of governance matters raised by these two reports to ensure that appropriate checks and balances are in place in Coventry. Many of the actions criticised in the two reports arise from a 'blurring of the lines' between Officers and Members, inappropriate behaviour by members towards Officers and a lack of arrangements in place to deal with such issues. Whilst there are no particular areas of concern in Coventry, the lack of any arrangements to deal with issues if they occurred could result in an erosion of ethical standards.
- 1.4 Such arrangements are typically set out in Member/Officer Relations Protocols and a Monitoring Officer Protocol. The Ethics Committee therefore requested officers to draft a Member/Officer Protocol and a Monitoring Officer Protocol for its consideration.
- 1.5 A Member/Officer Protocol is beneficial as it sets out for both members and officers what is expected of them in their respective roles and what they can expect from each other. While experienced councillors and officers may understand and appreciate the different roles that they have, newly elected members and recently appointed employees may find it helpful to have these roles explained in some detail. Understanding what is, and is not, expected of each other can assist in maintaining and improving excellent member/officer working relationships.

2. Options considered and recommended proposal

Option 1: Consider and Approve the Draft Protocol (recommended)

- 2.1 The draft Protocol is attached at the Appendix to this report. It has been drafted both to reflect current practices within the Council and best practice in other local authorities.
- 2.2 The Protocol offers guidance on some of the issues which most commonly arise in relation to Member/Officer relationships. It is partly a statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty. In particular, it covers the behaviour that is expected between Members and Officers. The Protocol gives

guidance only but it may be taken into account if there is a complaint about a Member or an Officer.

- 2.3 The Protocol clarifies the different but complementary roles of Officers and Members and sets what each can expect from the other. In addition it contains more detailed guidance on matters such as:
- Complaints
 - Member enquiries
 - Information and advice
 - Member briefings
 - Support services

Monitoring and periodic review of the Protocol is the responsibility of the Monitoring Officer.

- 2.4 The Ethics Committee approved the draft Protocol at its meeting on 14 September. The Protocol was considered by the Constitutional Advisory Panel on 9 October. The Panel approved the draft Protocol subject to an amendment to Paragraph 8.2.2. The suggested amendment is shown in the Appendix with text to be deleted struck through and new text in bold.
- 2.5 If the Cabinet Member is minded to approve the Protocol (with or without amendments), it would need to be considered by full Council before being incorporated into the Constitution.

Option 2: Do nothing (not recommended)

- 2.5 The Council is not required by law to have a Member Officer Protocol. If the Council so chose, it could decide not to pursue this matter. However, officers are strongly of the view that having a formal Protocol will assist both members and officers in understanding their respective roles and responsibilities and in setting clear standards which will help to maintain excellent working relationships.

2.6 Recommendation

Cabinet member is recommended to:

- (1) Approve the draft protocol as drafted subject to the amendment of paragraph 8.2.2; and
- (2) Recommend to full Council that they agree to its being included in the Constitution.

Council is recommended to:

- (1) agree to the inclusion of the Member /Officer Protocol in the Constitution.

3. Results of consultation undertaken

The Draft Protocol has been approved by Ethics Committee and by the Constitutional Advisory Panel.

4. Timetable for implementing this decision

- 4.1 Not applicable

5. Comments from Director of Finance and Corporate Services

5.1 Financial implications

There are no specific financial implications arising from the recommendations within this report.

5.2 Legal implications

There are no specific legal implications arising from this report, as there is no statutory obligation on the Council to have a Member Officer Protocol, although it is recommended as it assists both officers and members in understanding what is expected of them and what they can expect in return. The approval of a Member Officer Protocol assists in compliance for the Council as a whole, in its duty to promote high standards of ethical conduct

6. Other implications

None

6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / Local Area Agreement (or Coventry Sustainable Community Strategy)?

Not applicable

6.2 How is risk being managed?

There is no direct risk to the organisation as a result of the contents of this report.

6.3 What is the impact on the organisation?

The Protocol, once approved, should help both members and officers understand what their respective roles and responsibilities are and set clear standards. While there are no particular areas of concern in Coventry, the Protocol should help to set standards for both officers and elected.

6.4 Equalities / EIA

There are no public sector equality duties which are of relevance at this stage.

6.5 Implications for (or impact on) the environment

None

6.6 Implications for partner organisations?

None at this stage

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Appendix

Draft Member Officer Protocol

1. Status of this Code

- 1.1 This Protocol seeks to offer guidance on some of the issues which most commonly arise in relation to the relationships between Members and Officers.
- 1.2 The Protocol is partly a statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty. In particular, it covers the behaviour that is expected between Members and Officers.
- 1.3 The Protocol gives guidance only but it may be taken into account if there is a complaint about a Member or an Officer. Members must observe the Members' Code of Conduct. Any complaints received in relation to alleged breaches of the Code of Conduct will be considered initially by the Monitoring Officer. Officers are also obliged to comply with the Code of Conduct for Employees. Any complaints received about Officers behaviour or conduct will be considered by the relevant managers.

2. Roles of Members and Officers

Officers and Members both serve the public but they have different roles. Officers are employees of the Council and are politically neutral. Their role is to advise Members and implement the policies of the Council to the best of their abilities. Members are office holders and will often belong to a political party. They are obliged to exercise their own judgement in respect of matters before them but may also legitimately pursue party political objectives. Employees are answerable to the Chief Executive, not to individual Members (whatever office they hold), but there should be good communication between senior officers and Members with special responsibility for their area of work.

3. Expectations

3.1 *What Members can expect from Officers:*

- (a) A commitment to the authority as a whole, not to any political group;
- (b) A working partnership;
- (c) An understanding of and support for respective roles, workloads and pressures;
- (d) Timely responses to enquiries and complaints in accordance with agreed standards: (see paragraph 7)
- (e) Professional advice, not influenced by political views or preference;

- (f) Regular up-to-date information on matters that can be reasonably considered appropriate and relevant to the Member's needs, having regard to any individual responsibilities that they have and positions that they hold;
- (g) Awareness and sensitivity to the political environment;
- (h) Respect and courtesy;
- (i) Training and development in order to carry out their roles effectively;
- (j) Not to have personal issues raised with them by Officers outside the agreed procedures;
- (k) Officers should not try to persuade individual Members to make a decision in their personal favour or raise things to do with their employment with individual Members. Nor should they approach individual Members with allegations about other Officers. They should use the Council's grievance, whistle blowing and disciplinary procedures instead; and
- (l) Compliance with the Employee Code of Conduct.

3.2 *What Officers can expect from Members:*

- (a) A working partnership;
- (b) An understanding of and support for respective roles, workloads and pressures;
- (c) Political policy direction and leadership;
- (d) Respect and courtesy;
- (e) Members should generally restrict their discussion on strategic or significant issues to more senior officers (that is the Chief Executive, Deputy Chief Executives, Directors or Heads of Service); Members should raise all queries on operational matters initially with Directors or Heads of Service who will ensure that Members receive a prompt response.
- (f) Members are encouraged to use regular briefings and/or normally make appointments before visiting Officers in order to try to avoid frequent unscheduled interruptions;
- (g) Members should not pressure Officers to work outside their normal hours or to do anything they are not allowed to do or that is not part of their normal work;
- (h) Not to be subject to bullying, harassment or intimidation. Members should have regard to the seniority and experience of Officers in determining what

constitutes a reasonable request. Members with special responsibilities should be particularly aware of this;

- (i) Members should not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly;
- (j) Members should not make detrimental remarks about individual Officers during meetings, in public or to the media; and
- (k) Members should at all times comply with the Member Code of Conduct.

4. Limitations on behaviour

The distinct roles of Members and Officers necessarily impose limitations upon behaviour. By way of illustration and not as an exclusive list:

- (a) Personal relationships between individual Members and Officers can confuse the separate roles and get in the way of the proper discharge of the authority's functions. In this situation, others may feel that a particular Member or Officer may be treated more favourably.
- (b) Personal relationships should be avoided. Where they do exist the officer concerned must notify his or her manager.
- (c) The need to maintain the separate roles means that there are limits to the matters on which Members may seek the advice of Officers, both in relation to personal matters and party political issues;
- (d) Relationships with particular individuals or party groups should not be such as to create public suspicion that an employee favours that Member or group above others.

5. Politeness and respect

5.1 Members and Officers should show each other politeness and respect. Members have the right to challenge Officers' reports or actions, but they should avoid personal and/or public attacks; and ensure their criticism is fair and constructive.

5.2 Officers should not publicly criticise Council decisions even if they do not personally agree with those decisions.

6. Complaints about Members or Officers

6.1 If an Officer feels a Member is not treating them with politeness and respect, they should consider talking to the Member directly. If they do not feel they can talk to the Member or talking to the Member does not help, they should talk to their Head of Service or Director immediately. The manager approached will talk to the Member or

the Leader of their political group and may also tell other senior officers. The Officer will be told the outcome. Officers may also make a complaint alleging a breach of the Members' Code of Conduct.

6.2 If a Member feels an Officer is not treating them with politeness and respect, they should consider talking to the Officer directly. If they do not feel they can talk to the Officer or talking to the Officer does not help, they should talk to the Officer's Head of Service or Director immediately. If the problem continues the Head of Service or Director approached will consider whether to use the Council's disciplinary procedures.

7. Members' enquiries

7.1 Officers should answer Members' enquiries, in whatever form, within five working days. If that is not possible, they should send a holding reply. Where a Senior Officer considers that the enquiry received is inappropriate, the Member should be advised of this and the reason or reasons why the enquiry is considered to be inappropriate. Members should contact a more senior officer in the event that a response is not received within this time. The Chief Executive may be asked to resolve any issues arising from unreasonable delays in responding to Members' enquiries.

Casework

7.2 Where a Member is making an enquiry of Officers as part of their ward casework, Officers will normally assume that they have the implicit consent of an individual to disclose personal information about them to the Member but only where:

- the Member represents the ward in which the individual lives;
- the Member makes it clear that they are representing the individual in any request for their personal information to the local authority; and
- the information is necessary to respond to the individual's complaint.

In all other cases Officers may need to seek the explicit consent of the individual to share their personal data with the Member in order to comply with the Data Protection Act 1998.

7.3 Personal information about third parties (i.e. individuals who have not sought the Member's assistance) may only be shared with a Member where the law permits this. See also paragraphs 8.1.3 and 8.1.4 below.

8. Information and advice

8.1 Requests for written information

8.1.1 Members should be provided with adequate information about services or functions on which they may be called upon to make decisions or to scrutinise the decisions of others, or which affect their constituents. This information will normally be made routinely available by Officers in the form of reports, departmental plans etc.

Members are encouraged to make use of existing sources of information wherever possible.

- 8.1.2 Written information supplied to a Member regarding the implications of current Council policies or containing statistical information about Council services may be copied to the relevant Cabinet Member.
- 8.1.3 The Leader of the Council or Leader of any other political group may request the Chief Executive or the relevant Deputy Chief Executive, or other designated Officer to prepare reports on matters relating to the authority for consideration by the group. Such requests must be reasonable and should not seek confidential information in relation for instance to casework or personal details of applicants for services.
- 8.1.4 Wherever possible, such requests will be met. However, if the Officer considers that the cost of providing the information, or the nature of the request is unreasonable or inappropriate, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Leaders of the political groups. Requests will also only be met where they comply with data protection or other legal requirements.
- 8.1.5 Officer reports to political groups should be limited to a statement of relevant facts, identification of options and the merits and demerits of such options for the authority. Reports should not deal with any political implications of the matter.

8.2 *Briefings*

- 8.2.1 In order for them to discharge their responsibilities Cabinet Members will be briefed by senior officers (Deputy Chief Executives, Directors or Heads of Service) on service issues, proposals and policy development either on an ad hoc or a regular basis, in accordance with the requirements of the Member involved.
- 8.2.2 The other political party groups may also have nominated ~~portfolio leads~~ **Shadow Cabinet Members** and, if those ~~leads~~ so request, the relevant senior officers will make themselves available to meet with them to brief them on service issues. The other political party groups should be aware that at times the amount of information that officers can share with them may be limited due to issues of confidentiality
- 8.2.3 The content of these informal briefing sessions shall remain confidential as between Officers and the political group concerned.

8.3 *News items*

When an event or development occurs in the city which has or will have a significant impact on the Council or city residents, the Chief Executive will ensure that the Leaders of all political groups are informed as soon as possible.

8.4 *Ward Members*

- 8.4.1 Senior officers should ensure that Ward Members are given information relevant to their ward where appropriate. As well as letting Ward Members know when there has been a significant incident in their ward, Ward Members should be notified about the following types of issue:

- Public consultation events affecting their wards;
- Proposed changes to services sited within their wards;
- Applications and proposals in their wards

8.4.2 Ward Members should be invited by Officers to public events, such as openings, festivals etc., in their wards regardless of political affiliation.

8.4.3 The Media and Communications Team will advise Cabinet Members of 'photo shoots' taking place. The team will aim to give 48 hours' notice of any photo shoot to the Cabinet Member.

8.4.4 If Officers organise a public meeting about a specific ward issue, all the Ward Members should be invited and given as much notice as possible.

8.4.5 If Officers undertake consultation about specific ward issues they should consult the Members for that ward at the start of the consultation.

8.4.6 Ward Members should be told in advance about anything which particularly affects their ward and which is potentially controversial.

8.5 *Officer attendance at Group Meetings*

8.5.1 The Leader of the Council or Leader of any other political group may ask the Chief Executive or relevant Deputy Chief Executive to give or arrange a private briefing for the party group on a matter of relevance to the Council.

8.5.2 Any briefings offered to or requested by a party group will be offered to the other party groups.

8.5.3 While Officers may attend political group meetings at which individuals who are not elected Members may be present, Members need to understand that those Officers' ability to share confidential information with the Group may be limited. In particular Officers will not be able to share personal information with third parties present if to do so would cause the Council to breach the Data Protection Act 1998.

8.5.4 Decisions at group meetings are not Council or Cabinet decisions and party groups do not have any delegated authority to make formally binding decisions.

8.6 *Advice for Members with special responsibilities*

8.6.1 The Lord Mayor, Cabinet Members and Committee Chairs can ask the Chief Executive, Deputy Chief Executives, Directors and Heads of Service for extra background information and advice on different courses of action.

8.6.2 Although these Members have additional responsibilities and different relationships because of their more frequent contact with Officers, these Members must still respect the impartiality of Officers. This includes not asking them to undertake work of a party political nature, or to do anything which would prejudice that impartiality.

8.6.3 The Leaders of minority political groups can ask the Chief Executive, Deputy Chief Executives, Directors or Heads of Service for background information or more details about items coming to the next meeting of a Committee or Cabinet. The

appropriate Chair or Cabinet Member will be entitled to receive the same information.

8.6.4 Party group Leaders can ask for advice on presenting their budget in a correct and accurate form. This will be given in confidence.

9. Members' briefings on agendas and reports

9.1 Briefings on agendas

Deputy Chief Executives, Directors and Heads of Service will give briefings on full Council, Cabinet and Committee agendas to the Leader and Deputy Leader and Committee Chairs as appropriate.

9.2 Consultation on agendas

The Leader will be consulted on agendas for the Cabinet. Committee Chairs will be consulted on agendas for their Committees.

9.3 Requests for reports

9.3.1 Instructions for reports to come to Cabinet or Committees can only come from the Leader, Cabinet, a Cabinet Member in respect of the Cabinet and a Committee or a Committee Chair in respect of Committees. Cabinet Members may ask for reports to come to their Cabinet Member meetings.

9.3.2 Whilst Cabinet Members have political responsibility for drawing up proposals for consideration or for the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a professional duty to submit a report. Similarly, senior officers will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising between a Cabinet Member and a senior officer in this respect should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

10. Support services to Members and Political Groups

Support services should only be used for Council business. They should never be used for private purposes, for party political or campaigning activity.

11. Correspondence

11.1 Between Members and Officers

If emails or letters between Officers and Members are copied to someone else, they should say so. Blind copies should not be sent. Members should not forward information received from an Officer to a constituent or member of the public if that information is expressed to be private or confidential.

11.2 Letters on behalf of the Council

Letters on behalf of the Council will normally be sent by Officers rather than Members. The Leader or Committee Chairs may write some letters on behalf of the Council, for example representations to government ministers. Members must never send letters that create obligations or give instructions on behalf of the Council.

12. The Council as an Employer

The Council as a whole employs its Officers. The appointment and dismissal of Officers and any disciplinary or grievance proceedings will be carried out in accordance with the Employment Procedure Rules and any other agreed policies and procedures.

13. Responsibility for this Code

The Monitoring Officer has overall responsibility for this Protocol and will periodically review how it is working.