

SWINDON BOROUGH COUNCIL
PROTOCOL FOR MEMBER/OFFICER RELATIONS

(First adopted by the Authority from 19 September 2002)

1. Underlying principles

The principles underlying this protocol are as follows: -

- 1.1 There shall be mutual courtesy and respect between Members and officers with regard to their respective roles set out below.
- 1.2 Members and officers shall each carry out their respective duties in the best interests of the Council.
- 1.3 This Protocol applies to all dealings between Members and officers and not just in formal meetings.
- 1.4 The Council's organisationally agreed behaviour framework should be demonstrated at all times by both Officers and Members in their dealings with each other.

2. The Role of Members

2.1 These include the following:-

- 2.1.1 Develop and set policies that will then be implemented by the officers.
- 2.1.2 Monitor how those policies are being implemented.
- 2.1.3 Provide guidance to the officers on how those policies are to be implemented either if Members wish to do so or if officers ask for guidance.
- 2.1.4 Represent the views of their communities and ward constituents, and deal with individual casework.
- 2.1.5 Understand the statutory roles of the Chief Executive as Head of Paid Service, the Director of Finance as Section 151 Officer, the Monitoring Officer, Corporate Director of Children's Services and the Corporate Director of Adult Social Services and Health, and of the significance attached to their advice.
- 2.1.6 Consult, where possible, with the communities they represent on the development of policy, community planning and other local initiative.
- 2.1.7 Consult with the Monitoring Officer and the Director of Finance (S151 Officer) about vires, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions were, or are likely to be, contrary to the policy framework, or contrary to, or not wholly in accordance with the budget.

- 2.1.8 Respect officers' political impartiality.
- 2.19 Promote the highest standards of conduct and ethics by leadership and example.
- 2.20 Act within any agreed Councillor protocol.
- 2.2 Members must not insist that any officer
 - 2.2.1 Change his or her professional advice but in relation to specific matters should draw all relevant matters to the officer's attention as referred to in paragraph 3.1.7.
 - 2.2.2 Take any action, or not take action that the officer considers unlawful or illegal, or which would be likely to amount to maladministration.

3. The Role of officers

- 3.1 Officers:
 - 3.1.1 Should implement the policies set by Members.
 - 3.1.2 Will ask for guidance on implementation of the policies set by Members if they are unclear about any aspect of those policies.
 - 3.1.3 Give such professional advice to Members as may be required of them from time to time.
 - 3.1.4 Carry out their delegated functions to the best of their ability and in the interests of the Council.
 - 3.1.5 Must remember that he or she is employed by Swindon Borough Council as a whole and not by any particular part of the Council.
 - 3.1.6 Are under a duty to help all Councillors/Co-optees and all parts of the Authority equally.
 - 3.1.7 Should take all relevant matters into account when formulating advice to Members.
 - 3.1.8 Act in accordance with the Officers Code of Conduct
- 3.2 Officers must not:
 - 3.2.1 Set policy other than for the smooth running of office procedures and processes and as may have been delegated under the Council's Constitution and Scheme of Delegations.
 - 3.2.2 Take any action, or not take action, which would be unlawful or illegal or which would be likely to amount to maladministration.

4. Relationship between Members and Officers

- 4.1 The relationship between officers and Members should be characterised by mutual respect which is essential to good local government and underpinned by the Council's agreed behaviours framework.
- 4.2 Individual Members and officers must not use improper and/or inappropriate language to each other and, in particular, offensive and/or abusive words must not be used.
- 4.3 Close personal familiarity between individual Members and officers can damage professional relationships and prove embarrassing to other Members and officers. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct, or the perception that a Member and officer treat each other differently than others due to the nature of the personal relationship between them. This includes excessive socialising between Members and officers.
- 4.4 Any close personal or family relationships (eg. parent/child; spouse/partner) between officers and Members should be disclosed to the Chief Executive who will then decide how far this needs to be disclosed to others.
- 4.5 Members should not raise matters relating to the conduct or capability of Council staff either individually or collectively at meetings held in public or in the Press. Staff have no means of responding to criticism like this in public. If Members feel they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of a member of staff they should raise the matter with the Corporate Director, Director or Head of Service of the department concerned if they fail to resolve it through direct discussion with the member of staff.

5. Relationship between the Mayor, Leader of the Council, Cabinet Members and officers

- 5.1 The Mayor, the Leader of the Council and Cabinet Members shall be bound by the same provisions set out in paragraph 2 when acting as Mayor/Chair of the Council or Members of the Cabinet as they would be when acting as an ordinary Council Member.

6. Relationship between the Chair and Members of Overview and Scrutiny Committees (including the Scrutiny Committee) and officers

- 6.1 The Chair and members of the Council's overview and scrutiny committees and related bodies shall:
 - 6.1.1 Seek the advice of the Monitoring Officer where they consider there is doubt about the vires for a decision or the Monitoring Officer and other appropriate officers where they consider a decision of the Cabinet might be contrary to the policy framework.
 - 6.1.2 When considering calling officers to give evidence the Committees shall not normally, without the consent of the relevant Chief Officer,

request the attendance of a junior officer to ensure that more junior officers are not put under undue pressure.

- 6.1.3 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 expected to give a political view.
- 6.1.4 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 and their responses to consultations under the Scheme of Delegations.
- 6.1.5 Not to question officers in such a way as to be in breach of the Council's policy on harassment nor deal with matters which are of a disciplinary nature.
- 6.1.6 At all times respect the political impartiality of the officers.

6.2 Officers shall

- 6.2.1 Maintain political impartiality at all times when commenting on the Cabinet's / Council's policies and actions.
- 6.2.2 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 and Scheme of Delegations.
- 6.2.3 Ensure that an officer of sufficient seniority appears before the relevant Committee.

7. Relationship between the Chair and Members of other Committees and officers

- 7.1 This shall apply to all the Council's Cabinet, and Committees, including Planning Committee, Standards Committee, the Regulatory Committees, and Locality Panels and the Chair and members of those Council bodies shall:
 - 7.1.1 Be bound by the same provisions set out in paragraph 2 when sitting as a Committee/Council body; and
 - 7.1.2 Give officers the opportunity to present any report and give any advice they wish to present or give.

8. Officer Relationships with Party Groups

- 8.1 When dealing with the various party groups:

- 8.1.1 Officers shall exercise care when giving briefings or commenting on the policies and actions of the Cabinet or any of the Council's committees or panels and maintain political impartiality at all times.
- 8.1.2 Any request for advice to a political group or Member will be treated with strict confidence by the officers concerned and will not be accessible to any other political group. Factual information upon which any advice is based will, if requested, be available to all political groups
- 8.2 When acting in party groups, and dealing with officers, Members shall:
 - 8.2.1 Recognise that attendance at Party Group meetings by officers is not compulsory but officers may properly be called upon to support and contribute to such deliberations by Party Groups either by attendance or by preparing documentation for discussion by a group, subject to the availability of resources.
 - 8.2.2 Recognise that Party Groups are not empowered to make decisions on behalf of the Council and that any conclusions reached by such groups will not be actioned by officers.
 - 8.2.3 Ensure they do not do anything that may compromise officer impartiality.
 - 8.2.4 Ensure that confidential matters are not divulged to non-councillors.

9. Members' Ward Roles

- 9.1.1 Officers must brief Ward Councillors on significant events happening in their Ward in advance of them going public. Examples of such events range from a playing field being opened, to an ASBO being issued to an individual in their area.
- 9.1.2 As set out in the Scheme of Delegations, Members are entitled to be consulted in their capacity as Ward Members before an Officer exercises any powers under the Scheme of Delegation on any issue which may affect a particular ward
- 9.1.3 As set out in the Report Writing Guide, Officers must ensure that Ward Councillors are consulted where relevant on reports relating to issues affecting particular wards so that comments from Ward Councillors can be taken into account before the report is finalised.
- 9.2 When acting in their ward role, Members:
 - 9.2.1 Need to be mindful of their competing roles, ie 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.

- 9.2.2 Recognise the officers' right to suggest that senior officers, the Cabinet, Council or a committee should authorise additional work requested by individual Members.

10. Member Access to Documents and information

- 10.1 Save as provided below every Member of the Cabinet, a Committee and / or Sub-Committee of the Council has a right to inspect documents about the business of that Committee, Sub-Committee or the Cabinet, as set out in the Access to Information Procedure Rules included within the Council's Constitution.
- 10.2 A Member who is not a member of a specific Committee, Sub-Committee or the Cabinet may have access to any documents of that part of the Council if:
- 10.2.1 He or she can demonstrate a reasonable need to see the documents to perform his or her duties (the 'need to know'); and
- 10.2.2 The document or papers or information do not contain 'confidential' or 'exempt information'.
- 10.3 An officer should seek the advice of the Monitoring Officer in any case of doubt in relation to the reasonableness of a Member's request to have access to documentation and a Member should seek advice from the Monitoring Officer in circumstances where he or she wishes to inspect any document or have access to any information about a matter
- 10.3.1 In which he or she has a personal or prejudicial interest; or
- 10.3.2 Where to do so would be in breach of the Data Protection Act.
- 10.4 A Member must seek the advice of the Monitoring Officer before disclosing information given in confidence, in order that the Member can be advised as to whether such disclosure is reasonable and in the public interest, and whether such disclosure would be made in good faith and in compliance with the reasonable requirements of the Council.

11. Non-Council Members on Council Bodies

- 11.1 This Protocol also applies to all those people who are not elected members of the Council but who are members of or attend any of the Council's Committees or any other Council bodies.

12. Press Releases

- 12.1 All Council press releases
- 12.1.1 Should be in accordance with the Council's agreed Media Guidelines
- 12.1.2 Should be issued through the Council's Media/Communications Team

12.1.3 Should be concerned with matters of policy

12.1.4 Should not contain anything of a political nature. In this respect regard must be given to the relevant legislation concerning publicity issued by Councils, especially around election time.

13. Correspondence

13.1 All correspondence written on behalf of the Council must be written on the relevant headed paper.

13.2 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 ward member.

13.3 Correspondence between individual Members and officers should not be copied to other Members or officers unless the Member or officer concerned indicates otherwise.

13.4 All correspondence should normally be open to the inspection of the public in accordance with the Council's adopted policies. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain 'exempt' within the meaning of Schedule 12A to the Local Government Act 1972, as amended, or if this would be in conflict with the data protection legislation.

14. Breach of the Protocol

14.1 If the Protocol is breached, then a complaint may be made to the Monitoring Officer who shall consult with the Chair of Standards Committee and if appropriate refer the complaint to the Standards Committee to be considered further.

15. Further Advice

15.1 Any particular cases of difficulty or uncertainty under this protocol should be raised with the Monitoring Officer who will advise how to proceed.