

# Protocol on Member/Officer Relations



## Appendix 1: Protocol on Member/Officer Relations

### 1. Introduction

- 1.1 The protocol is designed to provide a guide to good working relations between Combined Authority Board Members, including the Mayor, and officers, to define their respective roles and provide some principles governing conduct. It is not intended to be prescriptive or comprehensive and seeks simply to offer guidance on some of the issues that most commonly arise.
- 1.2 The protocol seeks to reflect the principles underlying the respective Codes of Conduct that apply to Members and officers and should be read in association with those Codes. The shared objective of the Codes is to enhance and maintain the integrity of local government.
- 1.3 This protocol will also apply to co-opted members of committees/boards.
- 1.4 Members and Officers are all public servants who depend on each other in carrying out their work. Members are responsible to the people of the Combined Area who they serve for as long as their term of office lasts, while Officers are responsible to the Authority. Their job is to give impartial advice to the Cabinet and to the Authority's committees and subcommittees as well as individual Members, and to carry out the Authority's work.
- 1.5 Mutual respect between Members and Officers is essential to good local government. Mutual respect and courtesy should prevail in all meetings and contacts (both formal and informal) between Members and Officers. To be most effective Members and Officers will work closely and cohesively together. However, close personal familiarity between individual Members and Officers can damage this important relationship.
- 1.6 The relationship has to operate without any risk of compromising the ultimate responsibilities of Officers to the Authority as a whole, and with due regard to such technical, financial, professional and legal advice that Officers can legitimately provide to Members.

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- 1.7 It is clearly important that there should be a close working relationship between Board members, committee chairs, and the relevant chief officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the individual's ability to deal impartially with others.

### **2. Members' Role and Individual Officers**

- 2.1 A Board member who is also an elected member of a constituent authority may be asked for advice and support by an officer who is one of their constituents. Officers are entitled to seek such assistance in the same way as any other member of the public. However, members should be aware of the wider provisions of the constitution and be careful not to prejudice the Authority's position in relation to disciplinary procedures or employment matters in respect of an officer.
- 2.2 A member approached for help in such circumstances should first seek advice from the Monitoring Officer.
- 2.3 An officer should treat a Member as they would a member of the public in relation to the limited situations where they may be in personal receipt of services provided by authority.

#### **Roles of Members**

- 2.4 Members have many different roles:
- a) Members are the policy makers and carry out a number of strategic and corporate functions collectively approving the Authority's policy framework, strategic plans and budget.
  - b) Developing and reviewing policy and strategy.
  - c) Monitoring and reviewing policy implementation and service quality.
  - d) Members express political values and support the policies of the political party or group to which they belong (if any).
  - e) Representing their communities and bringing their views into the Authority's decision-making processes, thus becoming advocates for their communities.
  - f) Being involved in partnerships with other organisations as community leaders.
  - g) Representing the Authority on other bodies and acting as ambassadors for the Authority.
  - h) Members may have roles relating to their position as members of the Board or Overview and Scrutiny Committee or other committees and sub committees of the Authority.
  - i) **Making recommendations & decisions**

#### **Roles of Officers**

- 2.5 Officers' main roles are as follows:
- a) Providing advice to the Board, to the Authority's committees and subcommittees and Members to

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- enable them to fulfil their roles.
- b) Managing and providing services for which they are responsible.
- c) Being accountable for ensuring those services are efficient and effective.
- d) Advising the Board, the Authority's committees and subcommittees and Members in respect of those services.
- e) Initiating proposals for policy development.
- f) Implementing the Authority's policies.
- g) Ensuring the Authority acts lawfully.
- h) Representing the Authority on external organisations.

### **Respect and Courtesy**

- 2.6 An essential ingredient to the Authority's business being conducted effectively is ensuring mutual respect, trust, courtesy and even-handedness in all meetings and contacts between Officers and Members. This plays a very important part in the Authority's reputation and how it is seen by the public and partners.

### **The Authority's Reputation**

- 2.7 Members and Officers both have an important role in engendering a good reputation for the Authority. In particular they should:
- 1) protect and promote the legitimacy of democratic local government;
  - 2) promote a positive relationship between Members and Officers and be careful not to undermine it;
  - 3) avoid criticism of the Authority when formally representing it; and
  - 4) avoid personal criticism of other Members and Officers.

### **Undue pressure**

- 2.8 In any dealings between Members and Officers neither should try to take advantage of their position or place undue pressure on junior staff.
- 2.9 Members and Officers must always be mutually respectful, regardless of their role within the Authority. Members must not pressurise any Officer to do things s/he has no power to do, or to work outside of normal duties or hours.
- 2.10 Apart from decisions that are clearly illegal, Officers should usually carry out decisions of the Authority. However, instructions should never be given to Officers to act in a way that is unlawful. Officers have a duty to express their reservations in this sort of situation, and the Monitoring Officer or Chief Finance Officer may get involved as they have a statutory duty to intervene where illegality or maladministration is possible.
- 2.11 To assist Members in decision making they should be informed of all legal and financial considerations, and be warned of the consequences even if it is unpopular. If a Member has a concern that an Officer is not carrying out a particular Authority decision, the Member concerned should draw this to the

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attention of the Head of Paid Service.

- 2.12 In similar terms, Officers should not use undue influence to pressurise an individual Member to make a decision in his/her favour, nor raise personal matters to do with their job, or make claims or allegations about other Officers to Members.
- 2.13 The Authority has procedures for consultation, grievance and discipline and there is a right to report actions of concern under the Authority's Whistleblowing Policy.
- 2.14 Members should not seek to place undue pressure on junior officers through direct requests for information/advice.
- 2.15 **There will be occasions when members need to contact officers, if members contact officers who are not listed in the top three tiers of officer structure, the officer who has been contacted should inform their director if required. If possible, members should avoid going directly to Officers not listed in the top three tiers.**
- 2.16 As mentioned above, the Authority has adopted separate Codes of Conduct for Members and Officers. The codes aim to improve and maintain the Authority's reputation as well as protect both Mayor/ Members and Officers and so they demand very high standards of conduct.

### **3. Personal and Business Relationships**

- 3.1 Members and Officers must work together closely to effectively undertake the Authority's work. This inevitably leads to a degree of familiarity. However, close personal relationships between individual Members and Officers can be damaging to mutual respect.
- 3.2 It is important not to allow any personal or business connection or relationship with any other Member or Officer to affect the performance of official responsibilities, taking action or making decisions. It is also important in these circumstances to be wary of passing confidential information to anyone who should not have access to it.
- 3.3 Members and Officers should always consider how any relationship or connection could be interpreted by anyone outside the Authority, or by any other Member or Officer, and avoid creating any impression of unfairness or favouritism.
- 3.4 Members should take account of any relationship or connection they have with any other Member or Officer when considering whether or not they need to register or declare a personal interest. It would usually be inappropriate for a Member to have special responsibilities in an area of activity in which someone with whom s/he has a close personal or business relationship is a senior officer. If this situation arises, the Member should take appropriate action to avoid a potential conflict of interest.

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### 4. Officers' Advice to Members

- 4.1 Members are entitled to ask the Chief Officers for such advice and information as they reasonably need to help them in discharging their role as a Member of the Authority. This can range from general information about some aspect of the Authority's activities, to a request for specific information on behalf of a constituent.
- 4.2 It is important for the Chief Officers to keep Members informed both about the major issues affecting the Authority and about issues affecting the areas s/he represents. Members shall be kept informed about proposals affecting their constituent council areas and be invited to Authority initiated events within or affecting their constituent council areas.
- 4.3 Advice or information sought by Members should be given in a timely manner. It should be provided by the relevant service provided it is within the service's resources.
- 4.4 Officers serve the whole Authority and must be politically neutral in their work. In providing advice and support to the Authority and when implementing its lawful decisions, it must not be assumed that an Officer is supportive of a particular policy or view or is being other than politically neutral in implementing such decisions. Political neutrality in carrying out their work ensures that Officers are able to act impartially in the best interests of the Authority. Special legal rules exist which limit the political activities of senior Officers. All senior posts are 'politically restricted', which means that the Officers in those posts are not allowed to speak or write in such a way that could affect public support for a political party. However, they can speak or write in a way which is necessary in order to perform their duties properly.
- 4.5 If Members have any concerns that an Officer is not acting in a politically neutral manner, they should refer their concerns to the Head of Paid Service. Allegations that an Officer has not acted in a politically neutral way are serious and could be damaging to his/her reputation.
- 4.6 Officers can advise Members on matters relating to the Authority's business. When seeking advice the Members should approach the Chief Officers in the first instance. They will direct the Members to the appropriate lead officer who will normally be at Director/ Head of Service level.
- 4.7 There will be occasions when members need to contact officers, if members contact officers who are not listed in the top three tiers of officer structure, the officer who has been contacted should inform their director if required. If possible, members should avoid going directly to Officers not listed in the top three tiers.
- 4.8 Officers can usually give information confidentially unless doing so would not be in the Authority's best interests (for example, if it went against their obligation to protect the Authority's legal or financial position). Any

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information a Member receives confidentially in one capacity (for example, as a Member of the Board) cannot be used when acting in a different capacity (for example, when representing his/her ward).

- 4.8 Confidential information can only be given to those entitled to see it. It is best to check with the Officer giving the information whether it is appropriate to pass it on to others. Members should make sure that when they are getting help and advice from Officers they only ask for information to which they are properly entitled. There is more detail about the information to which Members are entitled in the Constitution.
- 4.9 Members' rights to inspect documents are contained partly in legislation and partly at common law.
- 4.10 Officers are required to serve the Authority as a whole. They are responsible to the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer, and not to individual Members whatever office they may hold.

### **5. Support Services to Board Members**

- 5.1 Board Members are provided with access to ICT (information and communication technology) systems and to support services (e.g. diary management, correspondence handling, typing, printing, photocopying etc.) to enable them to better perform their role as Board Members.
- 5.2 Members should not use - and officers should not provide - such access and support services in connection with party political or campaigning activity or for purposes not related to Combined Authority business, except that ICT access may be used for non- commercial purposes provided it does not cause a conflict with, or risk to, the Authority's systems, or increase the support required from officers.

### **6. Member/Officer Working**

- 6.1 The relationship between officers and Board Members should be characterised by mutual respect and courtesy and recognition of each other's roles and responsibilities. Board Members have the right to challenge officers' reports and actions, but they should avoid personal and or/public attacks, and ensure their criticism is fair and constructive.
- 6.2 Officers should not publicly criticise Authority decisions even if they do not personally agree with those decisions.
- 6.3 Collaborative working between Members and officers is essential but close personal familiarity can lead to damaging assumptions by others. Councillors and officers should inform the Monitoring Officer of any relationship either personal or family, or business connection which might be seen as unduly influencing their work in their respective roles. The Monitoring Officer will consider what action, if any, should be taken.
- 6.4 Officers work to the instructions of their managers not individual Board Members.

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- 6.5 Board Members must not require officers to change their professional advice or take any action which the officer considers unlawful or illegal or which would amount to a breach of officers roles and responsibilities, maladministration or breach of a statutory duty.
- 6.6 Board Members should not raise matters relating to the conduct or capability of an officer or of officers collectively at meetings held in public or in the press. Any concerns should be raised using the appropriate procedure.
- 6.7 The advice provided and actions taken by officers should be sensitive to the political nature of the organisation, but their advice should always be independent and unbiased.
- 6.8 Board Members must consult with the Monitoring Officer and the Chief Finance Officer about legality, maladministration and financial impropriety and if they have doubts as to whether a particular decision is or is likely to be contrary to the policy framework or budget.
- 6.9 The Authority has a statutory duty to positively promote equality. Members and officers should not by their manner, speech, or in any written communication, be discriminatory with regards to a person's age, disability, gender reassignment, marriage and civil partnership, pregnancy and the protected characteristics set out in The Equality Act 2010.

### **7. Officers and Individual Members**

- 7.1 Any Board Member may request a private and confidential briefing from an Executive Director or Director on matters of QQ.U.gy which have already been or may be discussed by the Authority or within its decision-making or advisory process. All requests should be made to the appropriate Executive Director or Director.
- 7.2 Briefings shall remain strictly confidential and are not to be shared with other members of the Authority unless so permitted by the relevant member.
- 7.3 Confidential information relating, for instance, to a Board member's ward/divisional cases should not normally be sought. If in exceptional circumstances members wish to discuss confidential aspects of an individual case then they shall first seek advice from the Executive Director or Director and follow appropriate guidance.
- 7.5 Finally, any official information provided to a member must only be used by the Board Member solely for the purpose for which it was provided (i.e. in connection with the proper performance of the member's duties as a member of the Council).
- 7.6 The point is emphasised in the Code of Conduct.

### **8. Politically Restricted Posts**

- 8.1 There are a number of rules which apply to Officers who occupy politically



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restricted posts under the Local Government and Housing Act 1989. In summary such Officers are prevented from:

- a) being a Member of Parliament, a Member of the European Parliament or a local authority member;
- b) acting as an election agent or sub agent for a candidate for any of those bodies;
- c) being an officer for a political party or branch, or a committee if that role is likely to involve participation in the management of the party or branch, or to act on its behalf in dealings with other persons;
- d) canvassing on behalf of a political party or an election candidate;
- e) speaking in public in support of a political party; and
- f) publishing written or artistic works affecting support for a political party.

### **9. Officers and Elected Representatives from other bodies**

- 9.1 Officers may be requested to meet with Councillors or elected representatives from constituent Councils or partner organisations to provide briefings and/or policy advice.
- 9.2 Any officer requested to attend a meeting of this nature which is not held on a cross- political party basis must obtain the prior authorisation of the Chief Executive

### **10. Media Relations**

- 10.1 All relations with the media must be conducted in accordance with the Authority's agreed procedures and the law on Local Authority publicity. Media inquiries relating to official business should be referred to the Communication Team.
- 10.2 Officers will make every effort to keep Board Members informed of media interest in Authority activities relevant to their responsibilities especially regarding strategic or contentious matters.
- 10.3 Any officer assisting a member with media relations must act at all times in the interests of the whole Authority and in a politically impartial manner. Other than factual statements, members should not seek assistance from an officer with the preparation or issue of any media statement that will adversely affect the reputation of the Authority.

### **11. Member Training**

- 11.1 **Board Members and all members of committees** are expected to embrace the principles of personal development and skill training and ensure they allocate time to participate in all the necessary training and personal development activities. This includes, but is not limited to, the necessary skills to take advantage of the ICT facilities made available to them.

### **12. Complaints/Concerns**

#### Procedure for Members

- 12.1 If a Board Member is dissatisfied with the conduct, behaviour or



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performance of an officer they should raise the matter privately with the relevant Executive Director or Director. If their concerns relate to an Executive Director or Director the concern should be raised with the Chief Executive. If the concerns relates to the Chief Executive then the concern should be raised with the Monitoring Officer. Where necessary, internal HR processes will be undertaken.

### **Procedure for Officers**

- 12.2 If an officer is unhappy with the conduct or behaviour of a Board Member they should seek to resolve the matter by appropriate discussion and involvement of their Executive Director or Director.
- 12.3 In the event that matters remain unresolved they should inform the Monitoring Officer who will consider what action should be taken.

### **13. Arbitration**

- 13.1 When necessary, the Chief Executive will arbitrate on the interpretation of this Protocol following consultation with the Monitoring Officer, who may also involve the head of HR where s/he judges that appropriate.