

# PROTOCOL ON MEMBER/OFFICER RELATIONS

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# CEREDIGION COUNTY COUNCIL

## PROTOCOL ON MEMBER/OFFICER RELATIONS

### 1. INTRODUCTION

- 1.1 The purpose of this Protocol is to guide Members and Officers in their relations with one another and to assist them in maintaining high standards of integrity and propriety. Given the complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It is to a large extent a written statement of current practice and convention and simply offers guidance on some of the issues which most commonly arise. It is hoped however, that the approach adopted by this Protocol will serve as a guide in dealing with other circumstances.
- 1.2 The Council has adopted separate Codes of Conduct for Members and for Officers respectively which embody the mandatory provisions contained in regulations made by ~~the National Assembly for Wales~~ Senedd Cymru. This Protocol seeks to reflect the principles underlying the respective Codes of Conduct and should be read in conjunction with those Codes. The shared objective of these Codes is to enhance and maintain the integrity of local government by demanding high standards of personal conduct.
- 1.3 The following extracts from the respective Codes of Conduct are particularly relevant:-
  - 1.3.1 Members must not do anything which compromises, or which is likely to compromise the impartiality of the Council's employees
  - 1.3.2 Employees are expected to provide appropriate advice to Councillors and fellow employees with impartiality

## 2. RELATIONSHIP BETWEEN MEMBERS AND OFFICERS

- 2.1 Councillors are responsible to the electorate, whom they serve throughout their term of office. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council and to carry out the Council's works under the direction and control of the Council, the Cabinet and Committees. Councillors (Members) must not act as if they are Officers and Officers must not act as if they are Councillors.
- 2.2 It is important that Members and Officers should observe reasonable standards of mutual courtesy and respect and that neither should seek to take unfair advantage of their position in any circumstances.
- 2.3 Members should not make personal comments about an Officer or Officers or undermine respect for an Officer or Officers in Council, Cabinet and Committee meetings or public fora. If a member feels that ~~s/het~~they have ~~has~~ not been treated with proper respect or has any concern about the conduct or capability of an Officer or Officers and is unable to resolve it through direct discussion with the Officer, ~~s/het~~they should raise the matter with the Corporate Director who heads the Service concerned. The Corporate Director will then investigate the matter and report back to the Member. If the Member continues to be concerned ~~s/het~~they should raise the issue with the Chief Executive who will look into the matter. Any action taken against an Officer in respect of a complaint will be taken in accordance with provisions of the Council's Disciplinary Procedure.
- 2.4 Where an Officer feels that a Member's conduct is inappropriate (including a breach of the Principles Governing the Conduct of Elected and Co-opted Members of Local Authorities in Wales (~~the Nolan Principles' contrary to the Code of Conduct for Members~~ (referenced in the Code of Conduct for Members at Part 5 Document J of the Council's Constitution)) or that ~~s/he has~~they have not been properly treated with respect by a Member, ~~they~~s/he should raise the matter with ~~his/her~~their Corporate Director, the Chief Executive or Monitoring Officer as appropriate. The Corporate Director, Chief Executive or Monitoring Officer will then take appropriate action by approaching the individual Member and/or group leader.
- 2.5 No Member or Officer should allow any personal connection or relationship with any other Member or Officer to affect the performance of his or her official responsibilities, or the taking of any action or decision by or on behalf of the Council. Members and Officers should always consider how such a relationship

or connection would be likely to be regarded by anyone outside the Council, or by any other Member or Officer, and avoid creating any impression of bias or unfairness.

2.6 Any Officer who is personally connected or related to any Member should notify ~~his or her~~their Chief Officer in writing.

2.7 Members should take into account any personal relationship or connection with any other Member or Officer, in considering the need to register or declare a personal interest whenever appropriate.

2.8 It must be remembered that Officers within a ~~department~~Service are accountable to their Corporate Director/Corporate Lead Officer and that whilst Officers should always seek to assist a Cabinet member/Chair (or indeed any Member), they must not in doing so, go beyond the bounds of whatever authority they have been given by their Corporate Director or Corporate Lead Officer. It should also be noted that the Chief Executive has statutory responsibility for ensuring the proper organisation and management of the Council's staff and has therefore an overall responsibility for the direction and management of all Officers.

### **3. RELATIONSHIP BETWEEN OFFICERS AND PARTY GROUPS**

- 3.1 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the Council, the Cabinet or the relevant Committee. Corporate Directors or their Corporate Lead ~~Offeier~~Officer may properly be required to support and contribute to such deliberations by party groups, provided they maintain political neutrality. The Corporate Director or his or her Corporate Lead ~~Offeier~~Officer will leave immediately after making the presentation.
- 3.2 Any request for a Corporate Director or Corporate Lead Officer to attend a meeting arranged by a party or party group, for the purpose of presenting information to the meeting must be made through the Chief Executive via the leader of the relevant party group. The Corporate Director or Corporate Lead ~~Offeier~~Officer who attends will do so in his/her/their official capacity, will be politically neutral, and attendance will not signify support for any particular political view, proposal or response. Such attendance will generally be avoided during the period between the announcement and conclusion of any local or parliamentary election affecting the area involved ('pre-election' period).
- 3.3 Similarly, where a Corporate Director or his/her/their Corporate Lead Officer provide information to a party group meeting in relation to Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet or relevant Committee when the matter in question is considered.
- 3.4 Corporate Directors will not provide information or advice to a party group meeting which includes persons who are not Members of the Council, as such persons are not bound by the Members' Code of Conduct (in particular the provisions concerning the declaration of interests and restrictions on disclosure of confidential information).
- 3.5 A Corporate Director or Corporate Lead Officer must respect the confidentiality of any party group discussion at which they are present and should not, in particular, relay the content of any such discussion to another party group.

#### **4. SUPPORT SERVICES AND FACILITIES FOR MEMBERS AND PARTY GROUPS**

The only basis on which the Council can lawfully provide support services and facilities to Members (e.g. computer equipment, stationery, typing, printing, photocopying, meeting rooms, transport etc.) is to assist them in discharging their role as Members of the Council. Except as may be provided in other agreed Council policies, such support services and facilities must only be used on Council business and in accordance with any written contract relating to the provision of such services made between Members and the Council.

## 5. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

5.1 Members are free to request any ~~department~~ Service to provide them with such information, explanation and advice about that ~~department's~~ Service's function as they may reasonably need in order to assist them in discharging their role as Members of the Council. This may range from a request for general information about some aspect of a ~~department's~~ Service's activities to a request for specific information on behalf of a constituent.

5.2 Such approaches should normally be directed to ~~a the Corporate Director or the~~ appropriate Corporate Lead Officer or Corporate Manager of the ~~department~~ Service concerned.

5-15.3 Where there is a matter of dispute or dissatisfaction, such contact should go to the Corporate Lead Officer, Corporate Director or Chief Executive.

5-25.4 The legal rights of Members to inspect Council documents arise partly from statute and partly from the common law (judicial decisions). Reference should be made to the relevant provisions of the Constitution, to the Local Government Act 1972 (particularly Section 100F(2)) and to the Local Authorities (Executive Arrangements) (Decisions, Documentation and Meetings) (Wales) Regulations 2001 (as amended).

5-35.5 In summary, Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Committee, Cabinet or Cabinet Member meeting for the purpose of making Cabinet decisions. This right applies irrespective of whether the Member is a member of the decision-making meeting concerned and extends not only to reports that are to be submitted to the meeting, but also to any relevant background papers. This right does not however apply to documents relating to exempt items on the agenda for any meeting. These contain information which is (by statute) exempt from publication because, for example, it relates or refers to employees, occupiers of Council property, applicants for grants or other services, the care of children, the proposed terms of a contract or contractual negotiations or other commercially sensitive information, industrial relations negotiations, legal advice or legal proceedings.

5-45.6 The common law right of Members is much broader and based on the principle that any Member has a prima facie right to inspect Council documents, provided this is reasonably necessary to enable the Member properly to perform his/hert duties as a Member of the Council. This principle is commonly referred to as the 'need to know' principle. The Member must therefore demonstrate that ~~s/he has~~ they have the necessary 'need to know' in



order to exercise this common law right. A member has no right to a 'roving commission' to examine documents of the Council and mere curiosity is not sufficient.

5.55.7 The common law test is therefore whether it is reasonably necessary for the Member to know the information in order to properly perform his/her/their duties as a Member of the Council. This question must initially be determined by the Strategic-Corporate Director whose department-service holds the document in question (with advice from the Monitoring Officer). In the event of a dispute, the question may be referred for determination by the Cabinet Member and Corporate Director responsible for the function or purpose for which the document is held, again with legal advice from the Monitoring Officer.

5.65.8 In some circumstances, a Member's 'need to know' will normally be presumed (e.g. a Committee member wishing to inspect documents relating to the functions of that Committee). In other circumstances, a Member will normally be expected to justify the request in specific terms (e.g. a Member wishing to inspect documents which contain personal information about third parties).

5.75.9 Whilst the term 'Council document' is very broad and includes any document produced by whatever means with Council resources, it is accepted by convention that a Member of one party group will not have a 'need to know' and therefore no right to inspect a document which forms part of the internal working of another party group.

5.85.10 Members should not put undue pressure on Officers to release information and documents to which they are not entitled to have access. Advice should be sought from the relevant Corporate Lead Officer.

5.95.11 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.

5.10 Finally, Council information provided to a Member must only be used by the Member for the purpose for which it was provided; that is, only to enable the proper performance of the Member's duties as a Councillor. This point is emphasised in the Members' Code of Conduct in the following terms:

"Members":

- (a) must not disclose confidential information or information which should reasonably be regarded as being of a confidential nature without the express consent of a person authorised to give such consent, or unless required by law to do so;

- (b) must not prevent any person from gaining access to information to which that person is entitled by law”

## 6 RELATIONSHIP BETWEEN OFFICERS, CHAIRS AND CABINET MEMBERS

6.1 It is important that there should be a close working relationship between Cabinet members, Chairs of Committees and the Corporate Directors, ~~and Chief Officers~~ ~~(Corporate Lead Officers)~~ and other senior officers of any ~~Service~~ department which reports to decision-making meetings. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups, or with any other individual or organisation.

6.2 Whilst a Cabinet Member or a Chair will be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some circumstances the proper conduct of business may require a particular matter to be included on an agenda by Officers. Corporate Directors and ~~Corporate Lead Officers~~ will always be fully responsible for the contents of any report submitted in their name.

6.3 Any issue concerning the inclusion of any item on an agenda, or the submission of any particular report, that cannot be agreed between a Cabinet member/Chair and a Corporate Director should be referred to the Monitoring Officer. There may also be circumstances in which the Chief Executive -or the Chief Finance Officer (as statutory ~~Finance~~ Section 151 Officer) or Monitoring Officer will be under a duty to submit a report.

6.4 If a report is written in an Officer's name, it remains the Officer's report and, even if the Chairperson is unhappy with its contents, it should not be amended other than with the express approval of the relevant Chief Officer. Where the Chairperson wishes to suggest an alternative course of action to that proposed by the Officer, then in exceptional circumstances, ~~s/he~~ they should write ~~his or her~~ their own report in addition to the report submitted by the Chief Officer but should not use undue pressure to persuade the Chief Officer to withdraw or amend the original Officer report. Members should not interfere with the day to day work of the Chief Officers and their staff.

## 7. RELATIONSHIP BETWEEN MEMBERS, OFFICERS AND SCRUTINY COMMITTEES

7.1 Any Overview and Scrutiny Committee or Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of Cabinet, the Chief Executive, ~~and any~~ Corporate Director or ~~Corporate Lead Officer~~ Head of Service to attend before it to explain in relation to matters within their remit:-

- Any particular decision or series of decisions; and/or
  - The extent to which the actions taken implement Council policy; and/or
  - The performance of the various sections within their span of control
- and it is the duty of those persons to attend for this purpose if so required.

7.2 Where any member or Corporate Director or Corporate Lead Officer is required to attend an Overview and Scrutiny Committee under this provision, the chair of that Committee will inform the ~~P~~roper ~~O~~fficer. The Proper Officer shall inform the member or officer in writing giving at least 10 working days' notice of the meeting at which ~~he/she is~~ they are required to attend. The notice will state the nature of the item on which ~~he/she is~~ they are required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Corporate Director or Corporate Lead Officer concerned will be given sufficient notice to allow for preparation of that documentation.

7.3 Where, in exceptional circumstances the Member or Corporate Director or Corporate Lead Officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with the Member or Corporate Director, arrange an alternative date for attendance.

7.4 It should be noted that it is not the role of an Overview and Scrutiny Committee to either

- 7.4.1 Act as a disciplinary hearing in relation to the actions of Officers – this is the Chief Executive's function alone in relation to staff or;
- 7.4.2 To act as a quasi 'court of appeal' against decisions, or to pursue complaints by individuals (Councillors, Officers or members of the public) as other procedures exist for this e.g. Complaints Procedure, Public Services Ombudsman, appeal to the Courts.

## 8. CORRESPONDENCE

- 8.1 Correspondence, including e-mails between an individual Member and an Officer should not normally be copied by the Officer to any other Member, except where necessary for the proper conduct of business and either at the discretion of the Service's [Strategic-Corporate](#) Director or with the agreement of the Member concerned. Where exceptionally it is necessary to copy the correspondence to another Member, the original Member should be informed.
- 8.2 Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer rather than in the name of the Member. It may be appropriate in certain ~~exceptional~~ circumstances (e.g. representations to a Government Minister or correspondence with the Leader of another local authority) for a letter to be issued in the name of the Leader of the Council. Letters which, for example, create obligations, confirm or deny the acceptance of any liability, or give instructions on behalf of the Council should always be sent out in the name of the Chief Executive or the appropriate Corporate Director or other senior Officer.

## 9. PUBLICITY AND THE MEDIA

- 9.1 Contact with the media on issues related to the Council or to Council business, including the issue of press releases, will be handled through the Press Office.
- 9.2 If a Member speaks to the media without first having consulted with the Leader or relevant Cabinet Member or Committee Chair and/or the Press Office, then it will be deemed to be the Member's own personal view.
- 9.3 Members are reminded of the need to comply with the requirements of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity which prohibit Councils from publishing any material which appears to be designed to affect public support for a political party. Publicity should not be used as a means to publicise individual Councillors, except where they are acting to represent the Council as a whole.

## **10. INVOLVEMENT OF WARD COUNCILLORS**

10.1 Ward Councillors should be kept informed and consulted on relevant matters affecting their ward, i.e. on planning, licensing and other relevant matters. The Ward Councillor should normally be invited to attend public meetings in their locality and could normally be expected to be consulted on any consultative exercise on local issues.

10.2 Members should not engage in negotiations with developers, business partners, business tenants, consultants or advisers without officers present.

## **11. FURTHER GUIDANCE**

Any Member who needs further guidance on any of the matters referred to in this Protocol, or on any similar or related issue, is advised to contact the Chief Executive or the Monitoring Officer.

Any Officer needing such guidance should refer initially to their manager, who will consult senior management and obtain advice as necessary. Questions of interpretation of this Protocol will be determined by the Monitoring Officer.

## **12. NON-ADHERENCE TO PROTOCOL**

Serious breaches of this Protocol by Officers should be dealt with under the Council's disciplinary procedures.

Breaches by Members may be referred to the relevant Group Leader for consideration and should be reported to the Chief Executive and the Monitoring Officer.