

DRAFT PROTOCOL

Protocol on Member/Officer Relations

1. INTRODUCTION

- 1.1 The relationship between Councillors and officers is an essential ingredient of the successful working of the organisation. This relationship is characterised by mutual respect and trust. Councillors and officers should feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship. The purpose of this Protocol is rather to help Councillors and officers to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. All Members and officers should operate in compliance with the protocol. Responsibility for upholding the protocol rests with Group Leaders in relation to elected Members and with the Chief Executive and Director of Law and Public Services (as Monitoring Officer).
- 1.2 The Protocol must be read and operated in the context of any relevant legislation, and the Code of Conduct for members. If members or officers are in any doubt about issues they should seek advice from either the Chief Executive or Director of Law and Public Services.

2. ROLES OF COUNCILLORS AND OFFICERS

- 2.1 The respective roles of Councillors and officers can be summarised as follows:

Councillors and officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and to the authority, and to carry out the authority's work under the direction and control of the Council, the Executive and relevant committees etc.

Mutual respect between Councillors and officers is essential to good local government.

- 2.2 Councillors

Councillors have four main areas of responsibility:

- (a) determining the policy of the authority and giving it political leadership;
- (b) monitoring and reviewing the performance of the authority in implementing that policy and delivering services;

- (c) representing the authority externally and
- (d) acting as advocates on behalf of their constituents.

It is not the role of Councillors to involve themselves routinely in the day-to-day management of the authority's services.

2.3 Members of the Executive, Chairs and Vice-Chairs

Members of the Executive and Chairs and Vice-Chairs of Scrutiny and Area Committees and other bodies have additional responsibilities. Although they may have different relationships and more regular contact these Councillors must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything which would prejudice that impartiality.

2.4 Opposition Councillors

As individual Councillors, all Councillors have the same rights and obligations in their relationship with officers and should be treated equally. This principle is particularly important in the context of the work of Scrutiny Committees.

2.5 Officers

The role of officers is to give advice and information to Councillors and to implement the policies determined by the authority.

Certain officers, e.g. Chief Executive and the Directors of Finance and Property Services and Director of Law and Public Services have responsibilities in law over and above their obligations to the authority and to individual Councillors. Councillors must respect these obligations, must not obstruct officers in the discharge of these responsibilities, and must not victimise officers for discharging these responsibilities.

3. EXPECTATIONS

3.1 Councillors can expect from officers:

- (a) A commitment to the authority as a whole, and not to any political group;
- (b) A working partnership;
- (c) An understanding of and support for respective roles, workloads and pressures;

- (d) Timely response to enquiries and complaints in accordance with agreed standards;
- (e) Professional advice, not influenced by political views or preference;
- (f) Regular, up-to-date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold;
- (g) Awareness of and sensitivity to the political environment;
- (h) Respect, dignity and courtesy;
- (i) Training and development in order to carry out their roles effectively;
- (j) Integrity, mutual support and appropriate confidentiality;
- (k) Not to have personal issues raised with them by officers outside the agreed procedures;
- (l) That officers will at all times comply with the relevant Code of Conduct;
- (m) Support for the role of Councillors as the local representatives of the authority.

3.2 Officers can expect from Councillors:

- (a) A working partnership;
- (b) An understanding of and support for respective roles, workloads and pressures;
- (c) Political leadership and direction;
- (d) Respect, dignity and courtesy;
- (e) Integrity, mutual support and appropriate confidentiality;
- (f) Not to be subject to bullying or harassment. Councillors should have regard to the seniority and experience of officers in determining what are reasonable requests, having regard to the powerful relationship between Councillors and officers, and the potential vulnerability of officers, particularly at junior levels;
- (g) That Councillors will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly;

- (h) That Councillors will at all times comply with the relevant Code of Conduct.

3.3 Limitations upon behaviour

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

- (a) Close personal relationships between Councillors and officers can confuse these separate roles and get in the way of the proper discharge of the authority's functions, not least in creating the perception in others that a particular Councillor or officer may secure advantageous treatment;
- (b) The need to maintain the separate roles means that there are limits to the matters on which they may seek the advice of officers, both in relation to personal matters and party political issues;
- (c) Relationships with particular individuals or party groups should not be such as to create public suspicion that an employee favours that Councillor or group above others. The issue of officer attendance and advice to political groups is specifically covered below.

4. POLITICAL GROUPS

4.1 Communications

Attached at Appendices A and B are the Communications Protocol for Officers and the general legal position on the use of Council resources for publicity purposes.

The only staff that can communicate direct with the Press are the Political Advisers on behalf of members or the Communications Office on behalf of the Council.

Political Advisers and staff in Group offices should only be carrying out work that relates to councillors roles as members of the Council and not as political party members.

Political Advisers should ensure that their names do not appear in external publications (as contact names) and that political office facilities are not made available to non-Council members, whether for campaigning or otherwise.

If staff are unsure as to whether they should or should not be doing particular areas of work they should check with the Head of Scrutiny and Democratic Services or the Director of Law and Public Services.

4.2 Reports

- (a) The Leader of the Council or Leader of any of the other political groups may request the Chief Executive or the relevant Director, or other designated officer to prepare written reports on matters relating to the authority for consideration by the group. Such requests must be reasonable and should not seek confidential information relating for instance to casework or personal details of applicants for services. Wherever possible, but subject to any overriding legal requirements, 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, the request will be referred to the Chief Executive for determination, where necessary in consultation with the Leaders of the political groups. This does not entitle any group to receive copies of draft agenda papers or draft minutes of meetings.
- (b) Officer reports to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Reports will not deal with any political implications of the matter or any option, and officers will not make any recommendation to a political group.

4.3 Officer Attendance

- (a) The Leader of the Council or Leader of any of the other political groups may ask the Chief Executive or relevant Director, or other designated officers to give or arrange a private and confidential briefing for the party group on a matter of relevance to the Council;
- (b) Any briefing offered to or requested by a party group will be offered to the other party groups. Where possible such briefings should be to all or a combination of party groups;
- (c) No officer of the Council shall attend any political group meeting which includes non-Council members;
- (d) Officers' advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Advice will not deal with any political implications of the matter or any option, and officers will not make any recommendation to a political group.

5. WHEN THINGS GO WRONG

5.1 Procedure for officers

From time to time the relationship between Councillors and officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager, officers can have recourse to the Chief Executive, as appropriate to the circumstances. Officers also have recourse to the Council's Whistleblowing Procedure or can refer the matter to the Standards Board for England if they consider that a councillor has broken the Code of Conduct.

5.2 Procedure for Councillors

In the event that a Councillor is dissatisfied with the conduct, behaviour or performance of an officer, the matter should be raised with the appropriate Director. Where the officer concerned is a Director the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive the matter should be raised with the Director of Law and Public Services.

No disciplinary action in respect of the Chief Executive, the Monitoring Officer (Director of Law and Public Services) or the Director of Finance and Property Services may be taken other than in accordance with a recommendation in a report made by a designated independent person as set out in the Council's Constitution.

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Communications Protocol for Officers on Legal Clearance of Documents or Comments Being Prepared for Public Consumption

Any publicity produced is bound by a strict legal framework. A comment or quote for the press is also a public statement.

Any publicity describing the Council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.

Responsibilities.

- Remember that press releases, comments, quotes, anything that will be aired in public, are owned by the Council. Therefore everything should be objective, balanced, informative and accurate. Nothing should appear to be designed to affect public support for a political party. This includes quotes from Members on any document produced by any part of the Council.
- It is your responsibility to make sure that any necessary legal clearance has been obtained. You should clear everything through your own department first, then refer it to Legal. Never send anything out unless you are sure it has the legal clearance it needs.
- Does your document have a high corporate profile? If so the Chief Executive should also clear the final version. You can get guidance from your head of service and the Central Communications Unit.
- If Members ask you to publish something that you consider to be inappropriate it is your duty to clear the information with the Legal and Central Communications Unit.
- If something cannot go out as a Member has suggested you can then explain why and offer an alternative form of words. Again you can get guidance and support from your head of service, Legal and Central Communications Unit.
- General legal advice is attached to this guidance. Please read it and make sure you understand it.

The following simple questions will help you decide whether legal clearance is needed before you sign off any work. Once you have been through them fill in the attached document clearance form.

Key questions about any publicity

- Is it objective, balanced, informative and accurate?
- Is there an election/by election due?
- Does the publicity/statement try to influence public opinion?
- Does it try to promote a particular candidate or party?
- Does the material promote a view on a matter of political controversy?
- Is the publication being distributed to all households in the borough?

Put it out?

Only if the answer is an unequivocal 'yes' to the first question.

Check it out?

Absolutely, if the answer is 'yes' to any of the other questions.

Please send the document or speak to the Legal Department, giving as much notice as you can.

Contact one of the following people:

Louise Round, Director of Law and Public Services x 3306

Peter Fehler (Assistant Director of Law and Public Services) x 3126.

David Daniels, (Assistant Director of Law and Public Services) x 3461

Who does this protocol apply to?

This protocol applies to everyone who works for Islington Council in any capacity, or who represents the Council in some way. This means that it includes:

- Permanent members of staff, whether full-time or part-time
- Temporary members of staff, staff employed on an agency or freelance basis etc
- Contractors
- Consultants
- Staff working here on secondments from other organisations
- Joint appointees
- And so on

Remember that many of our partner organisations, such as the police, will also be subject to the same or similar rules on production of publicity. Publications may therefore need to be checked through several organisations, not just the Council.

What documents does this protocol apply to?

This protocol applies to any document being prepared for public consumption including leaflets, newsletters, reports, posters, banners, fliers etc.

Press releases, comments or quotes for the media are also covered by this protocol.

It also applies to any document or publicity the Council is involved in producing alongside other people or other organisations. So if the publication is one produced in partnership or is a joint document (for example with the police, NHS, housing association, voluntary organisation etc) the protocol applies.

If the publication has the Council's name on it, even if there are many other contributors, the protocol applies. Even if we are not the main author, or the main funder, of the document, the protocol still applies and you should get it checked out through the Legal Department.

The golden rule

If in any doubt – be safe, take advice. Check it with the Legal Department.

LEGAL POSITION

USE OF COUNCIL RESOURCES FOR PUBLICITY PURPOSES

1. The Council has a wide variety of powers which enable it to produce publicity about its services and information relating to its functions. However, the Council is prohibited from publishing any material which, wholly or partly, appears to be designed to effect public support for a political party. In addition, the Council cannot give financial or other assistance to any person for this purpose. The prohibition covers any communication by the Council in whatever form addressed to the general public.
2. Publicity which is wholly informative and acceptable in style is not made unlawful merely because the likely effect is that a member of the public having considered the contents alters support for a political party. Particular care needs to be taken in referring to a political party or a politician because potentially such publicity may by that reference appear to be designed to effect support for a party either by praise or by disparagement. Publicity material which is part of a campaign must be carefully scrutinised to ensure that it does not come within the prohibition. Particular care is also required in respect of publicity issued in the period between notice of an election and polling day so that it is not perceived as seeking to influence public opinion or to promote the public image of a candidate or group of candidates.
3. The functions of the Council are derived from statute and are discharged by the Council corporately. This means that individual Councillors (who, as a body make up the Council) can only use Council resources for the purposes of the Council's functions.
4. Councillors may use Council resources for carrying out their duties as Members of the Council, including:
 - individual casework on behalf of the constituents
 - arising out of their membership of committees, sub-committees, working parties and other Council bodies
 - arising out of their position as Chair of a committee or sub-committee
 - as the appointed Council representative on external bodies
5. The Council can provide resources (such as stationery, secretarial services, communication facilities and transport) to enable Councillors to carry out their duties as Members of the Council.
6. However, Councillors must ensure that those resources are used strictly for their duties as members of the Council and for no other purpose for example individual publicity or for publicising their political party or publicity campaigns designed to affect support for their or another political party.
7. It is a central principle of administrative law (referred to by the Westminster auditor in his report on the Council's designated sales policy) that:

"..... the public purposes for which statutory powers are conferred on public authorities do not include the promotion of the private interests of particular parties or their members. Functions are not vested in local authority, or indeed in any Minister or other public body, to be used to the advantage of any particular political party or members of it".

This principle applies to the use of staff time in the Members Secretariat. Basically, public funds are not intended to be used for the essentially private purpose of deliberately encouraging public support for one political group, or designed to reduce it for another. By way of example, the use of officer time and Council resources to send letters with individually tailored but clearly politically partisan content to a variety of recipients cannot sensibly be considered as lawful use of public funds.

8. In certain circumstances, it may be appropriate for the Council itself to give publicity to the views and activities of individual Councillors when they are representing the Council itself, for example, when the Mayor speaks or acts as the first citizen or a Chair of a committee opens a housing scheme or launches a policy initiative approved by the committee. The Council may also issue press releases reporting statements made by individual Councillors. Examples are reports of discussions at Council and committee meetings and responses to events calling for speedy reaction from the Council.
9. No circular letters written by any Councillors using Council resources either in their 'production or in their distribution' should be sent out. Any information which needs to be communicated to the public in relation to Council business will be done by an appropriate officer. If in exceptional cases it is considered appropriate for communication to come from an individual Member (for example, where an Executive Member wishes to inform residents as to a particular issue), then this must be cleared personally by the Director of Law and Public Services or one of her Assistant Directors and only after receiving a full justification for the letter being signed by a Member or a detailed briefing surrounding the circumstances generally.

If Members needed any assistance with determining what would be considered lawful or unlawful they should contact Louise Round, Director of Law and Public Services on 7527 3174 or Peter Fehler on Ext. 3126.