

Protocol for Member/Officer Relations

1.0 Introduction

- 1.1 The Council is determined to provide excellent local government for the people of Hackney. It has produced this protocol for member/officer relations in order to promote the highest standards in public life and harmonious working relationships.
- 1.2 Partnership, based on mutual trust and respect between politicians and paid officers, is essential in achieving good local government. However this partnership will not be effective unless there is a clear understanding by all the role and obligations of members and the separate role and duties of officers. This protocol sets out these roles, obligations and duties and also the ground rules for all to observe. The standards in the protocol are binding and apply equally to elected members, voting and non-voting co-opted members and to officers where there is a joint responsibility.
- 1.3 The protocol is based upon legislation, Council policies and documents deriving from legislation as well as guidance from a variety of sources, primarily:
- The Local Government Act 2000
 - The Council's Constitution
 - The Members' Code of Conduct
 - The Corporate Protocol for Members' Enquiries
 - Guidance from Communities and Local Government;
 - Localism Act 2011
- 1.4 The protocol is designed to supplement and offer local interpretation of these documents. The protocol refers extensively to members' relationships with officers and other staff directly in the service of the Council. The principles of the protocol also apply to members' dealings with other people not directly employed by the Council but who are in an employment based relationship with the authority (such as staff employed under local management in schools, and consultants employed on a longer-term basis by the Council).
- 1.5 The principles underlying this protocol are as follows:
- 1.5.1 There shall be mutual courtesy and respect between members and officers with regard to their respective roles.
- 1.5.2 Members and officers shall each carry out their respective duties in the best interests of the Council.
- 1.5.3 This protocol applies to all dealings between members and officers and not only formal meetings.

2.0 General Obligations of Members

- 2.1 Members must observe the Council's Code of Conduct whenever they are conducting the business of the Council, conducting the business of their office or representing the Council. Members and voting Co-opted members are bound in law by the Code of Conduct, but non-voting Co-opted Members are also expected to comply with the provisions of the Code of Conduct.
- 2.2 The Code of Conduct places certain general obligations that members must observe and which have a bearing upon member/officer relations:
- 2.2.1 Members must not, in their official capacity or any other circumstance, conduct themselves in a manner which could be reasonably regarded as bringing their office or the Council into disrepute.
 - 2.2.2 Members must promote equality by not discriminating unlawfully against any other person, treat others with respect and not to do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of the Council.
 - 2.2.3 Members must not disclose information given to them in confidence by anyone or information which they have reason to believe is confidential unless they have authorisation or are required to do so by law.
 - 2.2.4 Member must not prevent another person from gaining access to information to which they are entitled by law.
 - 2.2.5 Members must not see their position improperly to gain advantage for themselves or to advantage or disadvantage another person.
 - 2.2.6 Members must use any Council facilities provided for them in their role as member strictly for that purpose and no other. For example, members must not use rooms in the town hall or any of the Council's paper, computers, photocopiers, or printers for any personal, business-related or party-political matter, nor on behalf of any community groups of which they are a member.
 - 2.2.7 Member services officers are provided to assist Councillors only in their role as Council members. Members should not ask them to assist with any person, business or party political matter. This is so even when the person being contacted is a constituent, or an officer or a Councillor. Member services officers will refer inappropriate requests for assistance to their service head.

- 2.2.8 Members are under an obligation to disclose personal interests and in accordance with the Code of Conduct. Members must register financial and other interests as well as gifts and hospitality as set out in the Code of Conduct.
- 2.2.9 Members must observe the Council's policy on Smoking and Tobacco which is that smoking shall not be permitted in or around Council buildings and that all employees and service users have the right to work in, or receive services in an environment which is free from tobacco smoke.
- 2.3 Members have a duty to act reasonably and when taking part in the Council's decision making processes, members must:
- take into consideration every thing they regard as relevant, or which they are advised is relevant;
 - disregard anything which they consider is not relevant, or which they are advised is not relevant;
 - follow the correct procedure.
- 2.4 Members control the Council's assets and finances, are in a position of trust and therefore have a fiduciary duty to act in the interests of all the people of Hackney. In law, someone with a fiduciary duty is someone who occupies a position of such power and confidence over the property of another that the law requires him or her to act solely in the interest of the person she or he represents. This is in contrast with an ordinary business relationship, in which each party is free to seek purely personal benefits from his or her transactions with the other. So, for example, a guardian, a trustee or an executor are all people with fiduciary duties.
- 3.0 Relationship between Members and Officers**
- 3.1 The relationship between officers and members should be characterised by mutual respect which is essential to good local government.
- 3.2 Any close personal or family relationships (e.g. 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. Members must also declare any such relationship with an officer which might be seen as influencing their work as a member to their party whip.
- 3.3 Members must not sit on a Council body or assume a Cabinet role responsible for any employee to whom they are married, the partner or otherwise closely related.

- 3.4 Generally, a close relationship between a member and a senior officer of second tier and above (and in some cases, other senior staff) is incompatible with the high standards of public life promoted by the Council and should be avoided or discouraged. The relationship may put the member, or the officer, in a position to exercise improper influence over the workings of the Council. Even if there is no actual impropriety, the situation may give rise to suspicion and the public may perceive that the opportunity for improper influence exists. In these situations a member could not be expected to remain in office, whilst the officer remained employed by the Council.
- 3.5 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.
- 3.6 Officers and members should address each other formally at meetings of Full Council, Cabinet, Committee, Sub-committee, Commissions and other formal meetings that officers attend that are open to the public.
- 3.7 Officers should dress formally when attending all meetings. Officers should refer to members of the office they hold: Mayor, Speaker, Chair, Vice-chair, or Councillor. Members should avoid excessive informality and should refer to officers either by their title or by their full name.
- 3.8 The same degree of formality is not necessary at any social events that members attend with officers. Nevertheless, members and officers attending an event by virtue of their role with the Council should avoid close personal familiarity or any action which would embarrass others or damage your relationship with staff or members. Socialising between members and officers other than in an official capacity should be avoided.

4.0 The Role of Members

4.1 Members:

- 4.1.1 Develop and set policies that will then be implemented by officers.
- 4.1.2 Monitor how those policies are being implemented.

- 4.1.3 Where their office allows them to do so, provide guidance to officers on how those policies are to be implemented, either if members wish to do so or if officers ask for guidance.
- 4.1.4 Represent the views of their communities and ward constituents, and deal with individual casework.
- 4.1.5 Recognise the statutory roles of the Chief Executive as Head of Paid Service, the Corporate Director of Finance and Resources as Section 151 Officer and the Corporate Director of Legal, HR and Regulatory Services as Monitoring Officer, the Corporate Director of Children and Young People's Services as Director of Children's Services and the Corporate Director of Health and Community Services as Director of Adult Social Services.
- 4.1.6 Consult with the communities they represent on the development of policy, particularly Best Value Reviews, the Best Value Performance Plan, Community Planning and other local initiatives.
- 4.1.7 Consult with the Monitoring Officer and the Chief Finance Officer about vices, maladministration, financial impropriety and probity or where they have any doubt as to whether the particular decisions are, or are likely to be, contrary to the policy framework, or contrary to, or not wholly in accordance with the budget.
- 4.1.8 Respect officers' political impartiality
- 4.1.9 Promote the highest standards of conduct and ethics.
- 4.2 Members must not:
 - 4.2.1 Insist that any officer take any action, or not take action that the officer considers unlawful or illegal; is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.

5.0 The Role Officers

- 5.1 Officers:
 - 5.1.1 Implement the policies set by members.
 - 5.1.2 Will ask for guidance on implementation of the policies set by members if they are unclear about any aspect of those policies.

- 5.1.3 Give such professional advice to members as may be required of them from time to time, recognising the different needs for advice members may have in their different capacities of ward member, cabinet member or scrutiny member.
- 5.1.4 Carry out their delegated functions to the best of their ability and in the interests of the Council.
- 5.1.5 Must remember that he or she is employed by the London Borough of Hackney as a whole and not by any particular part of the Council.
- 5.1.6 Are under a duty to help all Councillors/Co-opted members and all parts of the Council equally.
- 5.1.7 Must take all relevant matters into account when formulating advice to members.
- 5.2 Officers must not:
 - 5.2.1 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.
 - 5.2.2 Take any action, or not take action, which would be unlawful or illegal, is in direct contradiction of any code or guidance, contrary to the Council's budget or policy framework, or which would be likely to amount to maladministration.
- 6.0 Relationship between the Speaker, the Mayor, Cabinet Members and Officers**
- 6.1 The Speaker, the Mayor and Cabinet members shall be bound by the same provisions set out in paragraph 4 regardless of the capacity in which they are acting.
- 7.0 Relationship between the Chair and Members of Scrutiny Commissions and Officers**
- 7.1 The Chair and members of the Council's Scrutiny Commissions and related bodies shall:
 - 7.1.1 Seek the advice of the Monitoring Officer where they consider there is doubt about the vires for the decision or the Monitoring Officer and other appropriate officers where they consider a decision of the Mayor or the Cabinet might be contrary to the policy framework.

- 7.1.2 When considering calling officers to give evidence they shall liaise with the relevant Director of Chief Officer as to the most appropriate officer to attend.
 - 7.1.3 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 asked questions relating to political views.
 - 7.1.4 Where they consider it appropriate, ask officers to explain and justify advice given to executive members prior to decisions being undertaken and justify decisions they themselves have taken under the Council's Constitution, and their response to consultations under the Scheme of Delegations.
 - 7.1.5 Not 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 personal or disciplinary nature.
 - 7.1.6 At all times respect the political impartiality of the officers.
- 7.2 Officers shall:
- 7.2.1 Maintain political impartiality at all times when commenting on the Cabinet's/Council's policies and actions.
 - 7.2.2 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.
 - 7.2.3 Ensure that appropriate officers appear before the relevant panel.
- 8.0 Relationship between the Chair and Members of Scrutiny Commissions and Officers**
- 8.1 This shall apply to all the Council's Committees, including Planning Sub-Committee, Standards Committee, the Regulatory Committees and Ward Forums.
 - 8.2 The Chair and members of those Council bodies shall:
 - 8.2.1 Be bound by the same provisions set out in paragraph 2 when sitting as a Committee/Council body; and
 - 8.2.2 Give officers the opportunity to present any report and give any advice they wish to present or give.

9.0 Officer Relationships with Party Groups and Party Whips

9.1 When dealing with the various party groups:

9.1.1 Any request for information 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 will, if requested, be available to all political groups.

9.1.2 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.

9.2 When acting in party groups, and dealing with officers, members shall:

9.2.1 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.

9.2.2 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.

9.2.3 Ensure they do not do anything that may compromise officer impartiality.

9.2.4 Ensure that confidential matters are not divulged to non-councillors.

10.0 Members in their Ward Role

10.1 When acting in their ward role, members:

10.1.1 Need to be mindful of their competing roles, i.e. 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.

10.1.2 Recognise the officers' right to suggest that senior officers, the Cabinet, Council, or a committee/commission need to authorise additional work requested by individual members.

11.0 Complaints about officers or services

11.1 Members have the right to criticise reports or the actions taken by officers, but they should always:

- avoid personal attacks on officers
- ensure that criticism is constructive and well-founded

11.2 Members should avoid undermining respect for officers at meetings, or in any public forum. This would be damaging, both to effective working relationships and to the public image of the Council. It would also undermine the mutual trust and courtesy that is an essential element of a well run authority.

11.3 Complaints about officers or Council services should be made to the Director of the service where you feel the fault lies. Within three days, s/he will:

- acknowledge your complaint, and
- say if s/he intends to take action, or
- say how long s/he needs to investigate.

11.4 Members have a right to know if action has been taken to correct a matter, but they must not, either:

- influence the level of disciplinary action to be taken against an officer, nor
- insist (nor be seen to insist) that an employee is disciplined.

11.5 Members have a right to be told the outcome of any disciplinary case, but have no entitlement to detailed information about the hearing or its conduct.

11.6 If a member is not satisfied that action has been taken to deal with the complaint it may be referred to the Chief Executive by the member concerned.

12.0 Member Access to Documents and Information

12.1 Save as provided below every member of the Cabinet, Overview and Scrutiny Board, Scrutiny Commissions, Committee and/or Sub-Committee of the Council as a right to inspect documents about the business of that Commission/Committee, Sub-Committee or the Cabinet, as set out in the Access to Information Procedure Rules included within the Council's Constitution.

- 12.2 All Members can expect to have answers to the queries they raise on behalf of other constituents or about the policies and practices of the Council dealt with within the corporate time standards. The Corporate Protocol for Member's Enquiries sets out the procedure which each department will follow in responding to a member's request for information.
- 12.3 A Member who is not a member of a specific Commission/Committee, Sub-Committee or the Cabinet may have access to any document of that part of the Council if:
- the information sought is disclosable under the Freedom of Information Act, or
 - he or she satisfies the Council's Monitoring Officer, that he or she reasonably needs to see the documents to perform his or her duties; and
 - the document or papers or information do not contain 'confidential' or 'exempt information'.
- 12.4 All Groups are entitled to develop policies and plans and can expect officers to provide information on a confidential basis to their Group, providing that this is readily accessible, does not entail significant additional work and does not entail the release of information which is confidential or exempt.
- 12.5 All requests for advice and information that cross directorate boundaries or involve multi-directorate activities should be directed through the Chief Executive.
- 12.6 Managers must decide how to meet requests and must be able to determine what resources, including which staff, are to be made available. This extends to deciding which officers should answer questions, particularly in open meetings.
- 12.7 However, when a member asks for information or advice the reply must not be copied to or subsequently made available to, other members without the permission of the requesting member. Where information or advice is given in writing to a number of members the document should make clear who has received it. In other words, a system of 'silent copies' should not be used.
- 12.8 Groups are expected to give reasonable notice of requests for information and to have regard to the cost of producing any new detailed information.
- 12.9 If there is a disagreement the Chief Executive will ensure that the request is referred to the relevant body for decision.

- 12.10 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 in which he or she has a personal or prejudicial interest; or where to do so would be in breach of the Data Protection Act 1998.

13.0 Press Releases

- 13.1 All Council press releases should be in accordance with the Council's agreed Media Guidelines.
- 13.2 Should be issued through the Council's Media/Public Relations Team.
- 13.3 Should be concerned with matters of policy.
- 13.4 Should not contain anything of a party political nature. In this respect regard must be given to the relevant legislation concerning publicity issued by Councils, especially around election time.

14.0 Correspondence

- 14.1 All correspondence written on behalf of the Council must be written on the relevant headed paper. 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.
- 14.2 Correspondence between individual Members and officers should be treated as confidential unless the Member or officer indicates otherwise. 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.

15.0 Breach of the Protocol by a Member

- 15.1 Members are required to report any matter that they believe may be a breach of the Code of Conduct to the Standards Board for England. Members are requested to inform the Monitoring Officer of alleged breaches that they have reported to the Standards Board.

- 15.2 Officers are required to report any matter they believe may be a breach of the Code of Conduct to the Monitoring Officer. The Monitoring Officer may refer the complaint to the Standards Board for England if there is evidence that there has been a breach of the Code of Conduct and the Monitoring officer considers it appropriate to do so.
- 15.3 Co-opted Members of any Council Committee or Sub-Committee are required to report any matter they believe may be a breach of this or other Council protocols or a breach of the Code of Conduct by a non-voting co-opted member to the Monitoring Officer.
- 15.4 Where there has been an alleged breach of the protocol the Monitoring Officer will arrange for the matter to be investigated and may refer the complaint to the Standards Committee to be determined under local procedures. A summary of all alleged breaches will be reported to the Standards Committee once each quarter.
- 15.5 The Monitoring Officer, in conjunction with the Chief Executive, may refer the alleged breach to the relevant party whip and leader where appropriate.
- 16.0 Breach of the Protocol by an Officer**
- 16.1 Complaints of an alleged breach should be raised with the relevant service director and/or the Chief Executive. The provisions of section 11 of this protocol will then apply.
- 17.0 Further Advice**
- 17.1 Advice on the application of this protocol should be sought from either the Chief Executive or the Monitoring Officer.