



Member/Officer Relations

June 2019

MEMBER/OFFICER RELATIONS

1. INTRODUCTION

The purpose of this Protocol is to guide Members and officers of London Councils in their working relations with one another. It brings together many of the practices and values which contribute to a successful partnership but also acknowledges areas which may potentially cause embarrassment or difficulty. Equality, natural justice and reasonableness are strong underlying intentions throughout.

The Protocol is intended to be clear and understandable by all. It seeks to exclude any scope for misunderstanding which might lead to unreasonable behaviour or inappropriate action. The Protocol therefore offers some form of protection for both Members and officers.

The Protocol also operates under the general premise that both Members and officers are working towards the same goals and priorities. It has regard to London Councils' aim to be open and honest in its dealings within and outside London Councils, to work corporately, and to do so in a manner which encourages a participative culture.

2. THE DISTINCTIVE ROLES OF MEMBERS AND OFFICERS

It is important that both Members and officers respect their distinctive roles in order for relations to be clear and appropriate.

Members

It is members role to:

- a) on 33-member bodies to represent the interests of their authority and, by extension, local citizens and communities and ensure that their best interests are considered and that their views are brought into London Councils decision making;
- b) the Chair and elected officers of London Councils and members of Joint Committee Executive shall also pay particular regard to advancing the interests of London Councils corporately. When operating as a member of a Joint Committee Executive or as an elected officer, members will dictate and shape common policy positions on a cross party basis and advance those positions externally;
- c) set London Councils strategic direction, the policy framework, corporate goals, overall priorities and targets;
- d) develop policy proposals with professional advice from officers;
- e) monitor the implementation and effect of their decisions.

Officers

Officers are employed by London Councils to undertake an organisational role. It is their role to:

- a) deliver services to member councils and, where relevant, to the public according to the policies and requirements set by London Councils;
- b) shape, develop and implement policies, positions and services which accord with the overall framework set by Members;
- c) give professional advice to members in a clear, independent and non-partisan fashion;
- d) manage London Councils.

Put simply, Members are responsible for determining policy and London Councils' strategic direction; officers are responsible and accountable for implementing policy and delivering services.

Given these roles, officers are employed to work within and pursue London Councils' policies and priorities, unaffected by personal inclinations.

Officers are accountable to their line managers and ultimately their most senior director or the Chief Executive and must work to the instructions of their director/Chief Executive, or line manager, and not to individual Members, regardless of the office a Member might hold. Members should not interfere with matters that are properly the responsibility of officers.

3. WHAT MEMBERS CAN EXPECT OF OFFICERS

Members can expect officers:

- a) to do their job effectively and efficiently;
- b) to strive to provide services to member councils and the public which offer value for money and best practice;
- c) to behave in a manner which accords with the standards set by London Councils;
- d) to be helpful, respectful and courteous to Members;
- e) to assist Members in carrying out their role within London Councils in connection with London Councils business (they cannot, however, assist with party political or campaigning activity, or with private business);
- f) to deal with Members' enquiries fairly and efficiently;
- g) to be open and honest with Members. To tell the whole story, giving any bad news as well as the good;
- h) to work with all Members equally and fairly;
- i) to act lawfully;

- j) to give advice or recommendations based on reasoned options;
- k) to ensure that Members have all the information necessary to make informed judgments;
- l) to maintain confidentiality where it is proper for them to do so;
- m) not to canvass Members or otherwise seek to gain favour from them for personal or career advantage; and
- n) to have regard to social hours and generally to be sensible about contacting Members at potentially inconvenient times, unless in an emergency or otherwise agreed.

4. WHAT OFFICERS CAN EXPECT OF MEMBERS

Officers can expect Members:

- a) to accept that officers are accountable to their line manager/director/Chief Executive;
- b) to be helpful, respectful and courteous to officers; and treat them in a reasonable manner;
- c) not to become involved in the day-to-day management of London Councils;
- d) to accept that officers act independently of political bias, whilst recognising the special position of political advisers;
- e) to fully consider advice and recommendations for the purpose of making informed judgments;
- f) not to ask officers to breach London Councils' policy or procedures, or to act unlawfully, or outside the terms of their job;
- g) not to exert influence or pressure, or request special treatment, because they are a Member;
- h) not to request unauthorised access to resources or information held by London Councils;
- i) to be open and honest with officers;
- j) to act lawfully and to maintain confidentiality when appropriate to do so; and
- k) to respect that officers have private lives and to be mindful of that boundary in contacting officers outside of normal working hours.

5. POLITICAL NEUTRALITY AND IMPARTIALITY OF OFFICERS

Officers serve London Councils as a whole. They will ensure that they:

- a) respect the individual rights of all Members;
- b) serve all Members and not just those of the largest political grouping; and
- c) will co-operate even-handedly with Members engaged in all aspects of London Councils' functions.

By law¹, posts which:

- a) involve the post holders giving advice on a regular basis to London Councils or any London Councils Member Body²;
- b) involve the post holder speaking on behalf of London Councils on a regular basis to journalists or broadcasters; or
- c) are senior appointments (i.e. Head of Paid Service, Statutory and Non-Statutory chief officers)),

are designated as politically restricted.

If a person holds a politically restricted post, they are:

- a) disqualified from becoming or remaining a member of a local authority³; and
- b) restricted in the political activities they can undertake. They may not for example, hold particular types of office in a political party, act as an agent or canvass at any election, nor speak or write publicly on matters of party political debate.⁴

Members should not discuss party politics with officers nor must they assume that there is an allegiance to a particular party. Members should not place officers in an embarrassing situation where, for example, they feel they have to agree with a particular political line. However, officers must follow the agreed programme of work set out for London Councils by Members, while performing their duties.

Within the framework of a formal meeting it is natural that Members will make political statements. Officers should have an awareness of London Councils' political direction and acknowledge that at a strategic level, this will have an influence. It is not for officers to challenge such direction and they will co-operate with it, unless it is considered illegal following advice from London Councils legal advisers.

It is not improper that officers may sometimes wish to seek political guidance in framing policy proposals. However, when they write reports or give advice, they have a duty to give independent, objective and professional advice and to make Members aware of all the options available.

¹ Section 2 of the Local Government and Housing Act 1989.

² "London Councils Member Body" includes all London Councils Member groupings, committees, steering groups, forums, etc.

³ Section 1(1) of the Local Government and Housing Act 1989.

⁴ Refer to the Local Government Officers (Political Restrictions) Regulations 1990 for a more detailed account of what restrictions are placed upon politically restricted post holders.

6. PARTY GROUP MEETINGS

It is common practice for Party Groups to give preliminary informal consideration to London Councils business in advance of the formal decision-making process. Officers may, from time to time, be asked to attend Party Group meetings to brief Members in a professional capacity. Such attendance will be on the understanding that other Party Groups will be similarly served should they so request. The political neutrality of any officer attending a group meeting must be respected.

Officers will respect the confidentiality of any Party Group discussions at which they are present and, in particular, not relay any such discussion to another group.

All requests for an officer to attend a Party Group meeting should be made through the Chief Executive (or, in the Chief Executive's absence, their Deputy or another member of the Corporate Management Board) who will judge which officer is the most appropriate to attend. This avoids any danger of an individual officer being identified with the party concerned.

Officers may also be asked to give support in other ways such as briefing Chairs or spokespersons prior to a London Councils Member Body meeting.

In all these instances it is important that Members and officers understand the following:

- a) Officer support cannot extend beyond providing information and advice in relation to London Councils business - officers cannot be involved in party business. Where possible, this rule can be made easier to observe if officers are not present when party business is being discussed - thought should be given to the way in which the business for the meeting in question is structured;
- b) Party Group meetings cannot make London Councils decisions and any conclusions reached cannot be interpreted as such or acted upon;
- c) Where officers provide information and advice to a Party Group this cannot act as a substitute for providing all necessary detail to a London Councils Member Body meeting.

Special care is needed where officers are involved in providing information or advice to a Party Group meeting where people are present who are not elected Members of a local authority. Such people will not be bound by a local authority's Code of Conduct for Members and therefore officers should not disclose confidential information.

Any cases of particular difficulty or uncertainty in relation to officer advice to Party Groups should be raised with the Chief Executive.

The Political Advisers to the Party Groups are employed by London Councils Ltd. The references to political neutrality and attendance at Party Group meetings do not apply to these employees. However, the references to confidentiality and the prohibition on relaying any discussion to another Party Group do apply.

7. MEMBER CONTACT WITH OFFICERS

General

Members are free to approach any London Councils directorate for any information, explanation or advice that they need to assist them in carrying out their role as a Member at London Councils.⁵

Contact between Members and officers will normally be at a senior level or with officers whose role is naturally associated with Members. Generally, enquiries should be made to the appropriate Head of Service or to a designated liaison officer within the directorate. However, this does not mean that Members should have no contact with officers at all levels - general communication and interaction is encouraged.

Members should contact the relevant director or Chief Executive if the matter is very serious or sensitive, or if they are experiencing difficulties in getting a response from a more junior officer.

Members may request their Party Group's Political Advisers to approach officers on their behalf.

Officers must ensure that all written communications to Members contain the contact details of an appropriate officer.

Undue influence

Members should not put pressure on any officer in relation to matters which have been delegated to officers. This might lead officers to make decisions that:

- a) are not objective and cannot be accounted for; and/or
- b) favour, unfairly, one member or group of the public over another.

Equally, Members should avoid bringing any influence to bear on an officer to take any action which is:

- a) against normal procedures or London Councils policy;
- b) a breach of the Code of Conduct for Employees;
- c) in conflict with the London Councils Agreement, Standing Orders or Financial Regulations; and/or
- d) unlawful.

Officers have a duty to report to their director any attempt by a Member to exert improper influence. The director will inform the Chief Executive who will investigate where appropriate.

Complaints against officers

Care must be taken to ensure that a complaint, as opposed to an enquiry, is put through the official complaints procedure.⁶

⁵ Refer to the Members' Access to Information and London Councils Documents Protocol for further information.

⁶ Refer to section 13 of this Protocol to complain about an officer or Member.

8. MEMBERS AND THE RECRUITMENT OF OFFICERS

Members, or more specifically the Elected Officers, will be invited to assist in the recruitment of officers for the posts of:

- a) Chief Executive;
- b) Directors; and
- c) Political Advisers.

All other recruitment decisions regarding officers are the responsibility of London Councils' management and Human Resources. Refer to the Recruitment and Selection Procedure for further details regarding the recruitment of officers.

<http://www.londoncouncils.gov.uk/intranet/hr/policiesandprocedures/default.htm>

9. FAMILIARITY, FRIENDSHIPS AND RELATIONSHIPS

Close personal relationships between Members and officers should be avoided as far as possible as this can damage working relationships and prove embarrassing to colleagues on both sides. In particular, it could bring into question an officer's ability to deal impartially with other Members, and vice-versa.

However, it is recognised that it is possible that a close personal, family or business relationships may exist between some Members and officers. Officers should disclose such relationships to the Chief Executive. Members should disclose such relationships to the Leader of their Party Group, or another Member of the group if so designated as the contact point.

Members or officers engaged in such relationships should:

- a) take special care not to seek, or be seen, to influence their positions through their respective friend or partner. 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.
- b) Members must at all times abide by London Councils' Declaration of Interests protocol and officers, paragraph 2.8 of the Code of Conduct for Employees⁷;

<http://www.londoncouncils.gov.uk/intranet/hr/policiesandprocedures/default.htm>

And

- c) ensure that colleagues are not placed in an awkward or embarrassing situation as a result of a friendship or relationship.

⁷ Paragraph 2.8 of the Code of Conduct for Employees states: "Employees must register any personal interests (financial and non-financial) that may inform their approach to particular issues or give rise to a conflict of interest. Financial interests may include:

- a) Additional/other employment where employees have to declare taxes;
- b) Any contract for goods, services or works between London Councils and an organisation where an employee has some beneficial interest.

Non-financial interests may include:

- a) A close personal relationship or related to any person in any organisation which has business dealings with London Councils.
- b) Membership of an organisation whose principal purposes include the influence of public opinion or policy."

10. OFFICERS AS CONSTITUENTS

Officers who live in the Greater London area may attend public meetings in a personal capacity as a resident or service user. The officer may wish to voice concerns about certain local authority services or facilities, to ask questions or make suggestions. This is natural and acceptable provided that certain boundaries are maintained. Officers should take care not to:

- a) maliciously undermine London Councils by adverse or negative comments;
- b) raise personal issues concerning their employment; or
- c) disclose confidential information gained in the course of their work.

Members will respect the rights of the officer as a resident or service user. They will not:

- a) treat the officer concerned as an employee at such meetings;
- b) raise work issues with the officer; or
- c) hold grudges against officers that raise reasonable concerns in public forums.

11. MEMBERS AND THEIR USE OF LONDON COUNCILS SERVICES AS A RESIDENT OF LONDON

There will be times when Members use London Councils' services. In all instances, the officer providing the service will maintain full confidentiality where this is appropriate and will treat the Member concerned in the same way as any other customer. The Member will not seek or expect any preferential treatment.

12. CORRESPONDENCE

Correspondence on behalf of London Councils

Correspondence on behalf of London Councils should normally be sent out in the name of the appropriate officer rather than a Member. However, there will be exceptions where it may be appropriate for correspondence to be sent out in the name of a Member (e.g. representations to a Government Minister).

Members should not:

- a) coerce officers to send particular correspondence or to write, or refrain from writing, a particular statement; and
- b) write letters which create obligations or give instructions on behalf of London Councils.

Members and officers should at all times adhere to the London Councils' Publicity and Media Protocol:

<http://www.londoncouncils.gov.uk/intranet/knowhow/corporate/corporatepolicies.htm>

Correspondence between a Member and an officer

Officers will not normally copy correspondence they receive from an individual Member to any other Member. However, there may be times where this is necessary. Before copying the correspondence, the officer must ensure they:

- a) clearly inform the relevant Member what they intend to do with the correspondence; and
- b) procure the Member's consent.

13. COMPLAINTS AND CRITICISM

A Member or officer may wish to make a complaint against, or criticise the actions of, the other. Whilst it is preferable to resolve such matters informally through conciliation by an appropriate senior manager, formal complaints can be made.

Formal complaint by a Member about an officer

Where a Member is dissatisfied with the conduct, behaviour or performance of an officer, and they want to make a formal complaint, they should put their complaint in writing and address it to the officer's director.

Within 5 working days, the director will respond in writing:

- a) acknowledging receipt of the complaint;
- b) indicating what action they intend to take; and
- c) approximately how long any investigation of the matter will take or any other action that they intend to take.

Members have a right to be told the outcome of any disciplinary investigation, but no right to detailed information about the investigation.

Members must not:

- a) insist, or be seen to insist, that the officer is disciplined; or
- b) influence the level of any disciplinary action which might be taken against an officer.

If a Member is not satisfied with the result of the disciplinary investigation, they may refer the complaint to the Chief Executive for an independent assessment.

Formal complaint by a Member about a Director

A formal complaint about a director should be made in writing to the Chief Executive.

Within 5 working days, the Chief Executive will respond in writing:

- a) acknowledging receipt of the complaint;
- b) indicating what action they intend to take; and

- c) approximately how long any investigation of the matter will take or any other action that they intend to take.

Members have a right to be told the outcome of any disciplinary investigation, but no right to detailed information about the investigation.

Members must not:

- a) insist, or be seen to insist, that the director is disciplined; or
- b) influence the level of any disciplinary action which might be taken against a director.

Formal complaint by a Member about the Chief Executive

A formal complaint about the Chief Executive must be dealt with in accordance with the Local Authorities (Standing Orders) Regulations 1993.

Formal complaint by an officer about a Member

A formal complaint by an officer about a Member should be made in writing to the officer's director⁸. Within 5 working days, the director will respond in writing:

- a) acknowledging receipt of the complaint;
- b) indicating what action they intend to take; and
- c) approximately how long the investigation will take.

The Director will:

- a) investigate the matter;
- b) send a copy of the complaint to the Chief Executive; and
- c) advise the Party Group Leader of the complaint.

Officers have a right to be told whether London Councils will make a formal complaint to the relevant authority's monitoring officer as a result of the investigation, but no right to detailed information about the investigation.

If an Officer is not satisfied with the result of the investigation, they may refer the complaint to the Chief Executive for independent assessment.

Formal complaint by an officer about a Party Group Leader

A formal complaint about a Party Group Leader should be made in writing to the Chief Executive.

⁸ The Local Authorities (Standing Orders) Regulations 1993, Part II **Investigation of alleged misconduct 3.**—(1) Where...it appears to a relevant authority that a complaint of misconduct by the head of its paid service ("the relevant officer") requires to be investigated, the authority shall appoint ...a person ("the designated independent person"), being such person as may be agreed between the authority and the relevant officer or, in default of such agreement, appointed by the Secretary of State *to investigate the complaint*.

Within 5 working days, the Chief Executive will respond in writing:

- a) acknowledging receipt of the complaint;
- b) indicating what action they intend to take; and
- c) approximately how long the investigation will take.

Officers have a right to be told whether London Councils will make a formal complaint to the relevant authority's monitoring officer as a result of the investigation, but no right to detailed information about the investigation.

Formal complaint by an officer about the Chair of London Councils

A complaint about the Chair of London Councils should be made in writing to the Chief Executive.

Within 5 working days, the Chief Executive will respond in writing:

- a) acknowledging receipt of the complaint;
- b) indicating what action they intend to take; and
- c) approximately how long the investigation will take.

Officers have a right to be told whether London Councils will make a formal complaint to the relevant authority's monitoring officer as a result of the investigation, but no right to detailed information about the investigation.

Confidentiality

All complaints are to be treated with the strictest of confidence and on a 'need to know' basis at all times. Usually only the investigating officers, the Chief Executive and the Chair of London Councils need to know the full details of a complaint. Witnesses will only be told what they need to know in order for them to give evidence regarding the complaint. Any information provided to a witness must be treated with the strictest of confidence.

The identity of the person making a complaint should also be made known only on a 'need to know' basis. The complainant's identity should not be revealed to any other person or made public by London Councils.

Monitoring complaints

The Chief Executive will nominate an officer to be responsible for monitoring complaints by both officers and Members⁹.

14. BREACHES OF THE PROTOCOL

Relevant sections of this Protocol offer advice as to how to deal with any difficulties around, or breaches of, this Protocol. It is hoped that these routes will successfully and quickly resolve any issues.

⁹ Nominated officer is the Corporate Complaints Officer post holder

In all other cases, a breach of the Protocol should be dealt with by making a formal complaint under this Protocol.

Breaches of this Protocol will be taken very seriously and may result in disciplinary action for officers.

Other relevant protocols/policies/role profiles:

- Role Profile for Executive Members;
- Role Profile for Party Group Member Policy Lead
- Anti-fraud, bribery and corruption policy;
- Member and officer relations protocol;
- Members' rights of access to information protocol;
- Political Sign-off;
- Guidance on use of Urgency Procedure;
- Media Protocol;
- Party Group/Political Adviser/London Councils relations protocol;
- Whistleblowing policy;
- Declaration and registration of Interests protocol; and,
- Gifts and hospitality protocol.

These policies are available to view on London Councils website:

<http://www.londoncouncils.gov.uk/aboutus/governance/protocols.htm>

and also on the Members website: www.members.londoncouncils.gov.uk
or on request from the Director of Corporate Governance.