

PROTOCOL ON MEMBER / OFFICER RELATIONS

1. Introduction

- 1.1 This protocol has been produced to assist the working relationship between Members and Officers. Whilst the vast bulk of the business that is successfully conducted between Members and Officers may be unaffected, this protocol should simply serve to clarify the boundaries of the relationship should particular circumstances so require. It offers guidance on some of the issues that most commonly arise, and it is hoped that the approach adopted will be helpful when dealing with some other issues. In many respects, the protocol is no more than a written statement of current practice and conventions. It seeks to promote greater clarity and certainty, and can easily be updated from time to time as the need arises.

2. Guiding Principles of the Relationship

- 2.1 The primary role of Members and Officers is to serve the public and they must work together to meet their respective responsibilities. Members are responsible to the electorate and, through the system of decision-making and review bodies, take and scrutinise decisions on their behalf. Officers are the paid staff responsible to the elected Council as a whole and to their managers and the Head of Paid Service. Officers shall give advice to Members and take instructions through the decision making and review process set out in the Council's constitution. They shall implement the lawful decisions of Members and properly take decisions delegated to them.
- 2.2 The Local Code of Conduct adopted by the Council, and the codes applicable to Officers, gives guidance on the standards expected of Members and Officers. The main principles that underpin the Codes are:-
- mutual respect and courtesy between Members and Officers;
 - an awareness of each other's responsibilities and duties;
 - equal treatment, regardless of personal or political opinions;
 - an adherence to the law and the lawful instructions and advice of others;
 - an avoidance of close personal familiarity.
- 2.3 The above principles are designed to foster the good working relationships between Members and Officers that are essential to effective decision making and the delivery of services. In line with the principle of "mutual respect", it is important that any dealings between Members and Officers are based on good communication. Equally, reasonable standards of courtesy should be observed and neither party should seek to take unfair advantage of their position.

3. The Working Relationship in Practice

- 3.1 A good working relationship between the Members and Officers is essential for the Council to be fully effective in its operations. With this in mind it is important that both Members and Officers work together in a positive manner and Officers shall where possible assist Members in the carrying out of their roles. It is important that a two-way flow of communication between Members and Officers can operate in a climate of openness and with each other having the confidence to express views. Communication should be positive and productive, with proper feedback on any actions agreed.

- 3.2 Members should not require an Officer to do something he/she is not authorised to do or which is against his/her professional judgement. A Member should also not require an Officer to do something which is outside his/her normal duties or working hours. Given that Officers are responsible to their line Managers and ultimately the Head of Paid Service, it follows that a Member cannot instruct an Officer in any matter.
- 3.3 An Officer must not seek to influence a Member to do something that may be advantageous to the Officer personally or professionally or injurious to another Member or Officer. Any approaches of this nature should be reported to the Head of Paid Service.
- 3.4 Officers are encouraged not to discuss any personal matters to do with their job directly with a Member. Should this occur, the Officer should be directed to the Leader of the Council. Officers should otherwise speak directly to their line manager and go through established procedures, for example the appraisal, grievance and appeal procedures. This will avoid any conflict in the event of formal appeal hearing processes taking place. Members are asked to inform line management of any concerns raised so that they can be addressed through proper means.
- 3.5 Members and Officers should always demonstrate mutual acknowledgement of their respective roles at Council and other public meetings.
- 3.6 The Council's internal procedure for the resolution of disputes between Members and Officers is appended to this Protocol. In the case of Officers, subsequent action may be required under the Council's disciplinary or capability procedures. In the case of Members, the Monitoring Officer will be involved in relation to any Ethical Framework (Code of Conduct) implications.

4. Working Relationships between the Leader/Committee Chairmen and Officers

- 4.1 The working relationship between the elected Leader of the Council and its appointed Head of Paid Service is a vital one in local government and has a profound effect on the Council's performance.
- 4.2 The Head of Paid Service and Directors will have a close working relationship with the Leader of the Council and also the Chairmen of the Committees. The relationship should never be allowed to become so close, or to give such an appearance, so as to bring into question the ability of those Officers or Members to deal impartially with other Members and other party groups. The same caution should apply to all Member/Officer working relationships.
- 4.3 The Leader and Chairmen of Committees will be consulted by Officers on aspects of committee business. Directors will be solely responsible for the content of any committee report submitted in their names. Any issues arising from this particular working relationship shall be referred to the Head of Paid Service.
- 4.4 Although Officers are accountable to their respective senior management, they shall assist the Leader and Chairmen of Committees where possible without going beyond the bounds of their authority.
- 4.5 Chairmen of Committees, and also Chairmen of Working Groups/Panels/Boards are expected to share information with other Members and, where necessary, engage with Officers to ensure that proper briefing/training takes place.

5. Personal Relationships between Members and Officers

- 5.1 Where there exists an unavoidable personal relationship between a Member and Officer (whether it be family or social) the Member concerned will notify his / her Group Leader as soon as practicable, and the Officer concerned will inform the Head of Paid Service. If the Officer in question is the Head of Paid Service, he/she will inform the Group Leaders who may consider the implications.
- 5.2 While a degree of informality may exist in day to day working relationships between Members and Officers, formality shall be observed at Council and Committee meetings. Members shall be addressed as Councillor (followed by their name), and Chairmen addressed as Mr or Madam Chairman. Officers shall also be addressed formally, without reference to forenames, at Council and Committee meetings.

6. Appointment or Dismissal of Officers

- 6.1 Members will take no part in the appointment or dismissal of, or disciplinary action against Officers below Director (but excluding Head of Paid Service, Monitoring Officer and Section 151 (S151) Officer (Finance)), nor should they seek to influence in any way the appointment or dismissal of a particular person to a post, or the conduct of any disciplinary action.
- 6.2 Members must not take part in the appointment or dismissal of Directors and above (including Head of Paid Service, Monitoring Officer and S151 Officer (Finance)) if they are in any way related to or associated with the person concerned.

7. Political Groups and Officers

- 7.1 A service or facility made available to one political group shall be made available to all groups and the Officer providing that service will provide it equally and impartially. Such services may include briefings prior to meetings and/or discussions with a group on a particular topic. Where this type of arrangement occurs the following principles shall be observed by Members and Officers:
- Officer support extends only to the provision of information and advice on Council business. It does not include advice on party or personal matters. Officers should not be invited to attend any part of a group meeting which discusses party political business;
 - any advice given to one party group at such meetings shall be available to the other groups, prior to or at formal decision making meetings;
 - the confidentiality of party group meetings should be respected;
 - decisions taken at party group meetings are not formal decisions of the Council and should not be treated as such by Officers;
 - information and advice given to party groups in no way dispenses with the need to provide all necessary information and advice to the relevant decision-making body of the Council.
- 7.2 Where Officers have particular difficulties involving advice to party groups these should be raised with the Head of Paid Service or appropriate Director.

8. Declarations of Interest by Members

- 8.1 On the request of a Member, the Monitoring Officer will provide advice to Members on disclosure of pecuniary and non-pecuniary interests. That advice will always be given in confidence unless statute requires otherwise. It is the Member's responsibility, in the light of the advice and their knowledge of the extent of their interest, to decide whether an interest should be disclosed.

9. Support Services to Members / Party Groups

- 9.1 Only such services as are necessary to assist Members to carry out their roles as elected representatives will be provided to Members. These services may include the provision of typing, printing and stationery but they can only be used for legitimate Council business and not for private purposes or party political activities.

10. Members' Access to Information and Council Documents

- 10.1 Members may receive such information as is necessary for them to carry out their roles as Councillors. All Members are entitled by law to inspect any public Council document, whether it is a report or a background paper, which contains material relating to any business to be conducted at any meeting of the Council or its bodies. This right does not extend to exempt or confidential items or papers. Under common law, Members have a right to inspect Council documents if it is necessary to enable them to perform their duties as Councillors.
- 10.2 If a Member can demonstrate this "need to know" to the satisfaction of the Director holding the information they may inspect a document. The Director may seek the advice of a Legal Advisor in this respect. Any dispute should be referred to the Head of Paid Service. Where a Member is seeking information on a matter which is not directly relevant to their service on a particular body, but which they feel is necessary for them to perform their duty as a Councillor, the details of the information requested and the reasons for seeking it should be put in writing to the relevant Director.
- 10.3 Any information provided to a Member may only be used for the proper performance of their duties and should not be used for their own or others' personal advantage. The Local Code of Conduct provides that exempt or confidential information should not be disclosed to persons outside the Council.
- 10.4 Officers will endeavour to ensure that useful and relevant information is brought to the attention Members through the existing available channels such as the monthly Members' Bulletin.

11. Communications / Correspondence

- 11.1 All official communications and correspondence on behalf of the Council will normally be issued in the name of the relevant and responsible Officer. It may be appropriate on occasions, e.g. representations to a Government Minister or an elected representative of another Authority, for a letter to be in the name of a Member. This would be a rare exception. The Leader of the Council will respond to any correspondence addressed to him/her in that capacity. Any communications of a nature that create legal obligations or give instructions should always be sent in the name of an Officer.

12. Ward Members

- 12.1 Officers shall ensure that where practicable and prudent they will keep Members informed of issues affecting their Wards as the elected representatives of the Council, including stage 2 complaint responses. Where confidentiality requirements apply they must be respected.

13. Member / Officer relationships in Planning Matters

- 13.1 Decision-making in planning matters is akin to a quasi-judicial function. The roles that Members and Officers play in this process will be guided by their respective codes of conduct, the latter including a Code of Professional Conduct issued by the Royal Town Planning Institute for Chartered Town Planners. There is also significant and detailed national guidance on probity in planning, particularly that issued by the Local Government Association. The Council has adopted protocols that deal with Member involvement in pre-application discussions and also in planning appeals.
- 13.2 Members will often need to contact the Planning Case Officer on development proposals. Contact should however be limited to requests for factual information and the seeking of advice on progress and the nature of consultation responses received. While Members are encouraged to discuss their concerns and share relevant information with Officers, they should not attempt to influence or pressure Officers in the making of particular recommendations. If a Member is unhappy with the way in which a case is progressing, the matter should be discussed with a senior officer of at least Team Leader level.

14. Representation on Outside Bodies

- 14.1 The Council will appoint Members and Officers to serve on various outside bodies, liaison and working groups. Officers will ensure that Members receive support through briefing and information to enable them to fulfil that representative role. Equally, Member representatives are encouraged to provide feedback by appropriate means to other Members and also Officers.

15. Clarification of matters affecting individual Members

- 15.1 Any Member requiring clarification of a matter affecting them as an individual should speak to the Head of Paid Service and/or Monitoring Officer in the first instance, or the Director responsible for Finance in relation to a financial issue.

MEMBER/OFFICER RELATIONS – A PROCEDURE FOR THE RESOLUTION OF DISPUTES

1. Background

- 1.1 Like all effective partnerships, Member / Officer relations are based on the following principles:
- Mutual trust and respect of the different roles of Members and Officers;
 - A common purpose; providing the best possible service to the residents and other stakeholders of the Maldon District;
 - A commitment to non-adversarial resolution of disputes.
- 1.2 It is suggested that when looking to resolve concerns both formally and informally email correspondence should be kept to a minimum and face to face meetings to discuss concerns should be the preferred option. Similarly, both parties should aim to be positive in seeking a solution to the problem being raised and to ensure clarity on the actions to be taken forward following any discussions that take place. Whilst aiming to resolve an issue informally great care should be taken to use constructive language and avoid terminology such as “investigation” or “accusation”.

2. Members’ disputes with Officers

- 2.1 The key principle for dispute resolution is that both Members and Officers are committed to informal, non-adversarial solutions. Where a dispute arises, the first step should be for both parties to seek to resolve any differences informally between themselves or, where necessary, with the assistance of a Director and the Leader of the Council / Opposition Leader.
- 2.2 Generally if a Member has a concern they should raise this with the Officer concerned and that Officer should provide a response within seven days. If the concern is expressed via email the Officer shall contact the Member within three working days. If this is not possible, the Member should be kept informed of when they can expect a response.
- 2.3 If concerns remain after the initial approach, any outstanding concerns should be addressed to the Leader of the Council who, for the purposes of clarity, will seek feedback on the issue of concern from the Head of Paid Service.

3. Members’ complaints about Officers

- 3.1 Members must make any formal complaints about Officers to the Leader who will inform the Head of Paid Service. The matter will be investigated, and the Officer will be informed of the outcome. The Head of Paid Service will inform the Leader who will then advise the relevant Member. In appropriate cases, disciplinary action may be taken.

4. Officers’ disputes with Members

- 4.1 The same aim to seek out informal constructive solutions to concerns should be applied to complaints from Officers to Members.

- 4.2 Where a concern arises, the first step should be for both parties to seek to resolve any differences informally between themselves or with the assistance of the relevant Director and the Leader of the Council/Opposition Leader.
- 4.3 The Officer concerned should make their concerns known to their Director who should work with them to liaise with the Member to seek an informal discussion to arrive at a solution. The Leader must always be kept informed, so that he/she is fully aware of the concerns and can work with the Member to get a clear view of the circumstances from their perspective and provide any necessary support.

5. Officers' complaints about Members

- 5.1 If it is not possible to resolve the concern informally, the Officer(s) must make a formal complaint about a Member to the Standards Committee via the Monitoring Officer. The Council's Complaint Process will then determine what happens to the complaint.