

PART 5c – PROTOCOL ON MEMBER/OFFICER RELATIONS

Effective from ~~20 May 2015~~^{249 May 2023}
~~and updated January 2018xx 2023~~

Approved by Council on ~~30 March 2015~~ May

PART 5c – PROTOCOL FOR MEMBER/OFFICER WORKING ARRANGEMENTS

1. INTRODUCTION

- 1.1 Fylde Council recognises that the relationship between its members and its officers is of vital importance in its work on behalf of the people of the Borough. The Council believes that a public statement of rules and guidance on this relationship demonstrates its commitment to act with integrity and helps both members and officers in carrying out their different but interrelated functions.
- 1.2 The Council accepts that mutual respect between members and officers is essential to good local government. However, working relationships between members and officers should never be allowed to become so close, or appear to be close, as to bring the officers' ability to deal impartially with other members into question. Such relationships should also not be influenced by sex, sexual orientation, marital status, race, nationality, ethnic or national origin or colour, creed or religion, age, income or disability.
- 1.3 Given the variety and complexity of member/officer relations, the protocol does not seek to be prescriptive or comprehensive. The intention is simply to offer guidance on some of the issues which most commonly occur and which, in turn, may help and serve as a guide in dealing with other situations which might arise.
- 1.4 The protocol is largely a statement of current practice and convention, but by collating and emphasising these principles it is hoped to promote greater clarity and certainty.
- 1.5 Both Members and Officers serve the public. They depend on one another, but their responsibilities are distinct. Members are responsible to the electorate and are responsible for setting policy. Officers are responsible to the Council.
- 1.6 Members should respect the impartiality and integrity of all the Council's Officers. Similarly, officers must respect the role of members as elected representatives. It is important that any dealings between members and officers should observe proper standards of courtesy and that neither party should seek to take unfair advantage of their position.

2 ROLES OF MEMBERS

- 2.1 Members are elected by, and ultimately accountable to, their electorate. In fulfilling their role, members have to take into account corporate, community and (usually) political dimensions.
- 2.2 Collectively, members have corporate responsibility for the actions of the council. They are responsible for the strategic direction of the council, for its overall governance, for ensuring that it meets its legal obligations, and that its organisation is fit for the purposes of delivering the services which it is required or may choose to provide.
- 2.3 Individually, members have community responsibility for representing people who live in the wards that they represent. This may include passing on concerns and criticisms about council policy and decisions to other members and to officers.

- 2.4 Members who have been elected as candidates of a political party will have a political responsibility to their party group. Though they are not legally required to act in line with any political expectation, the position of their group is a legitimate and proper consideration.
- 2.5 Officers, particularly senior officers, should be sensitive to the different dimensions of the role of members and to the differences between the roles of members and officers.
- 2.6 Officers must have regard to the “Think Councillor” guidance which is annexed to this protocol.

3 ROLE OF OFFICERS

- 3.1 The principal role of officers is to support members in their role by giving advice to Members and the Council and by carrying out the Council’s work under the direction and control of the Council. However, certain officers have specific legal responsibilities that they must fulfil. All officers have professional responsibilities which may affect the way in which they support the role of members.
- 3.2 Where the council is led by a majority political group or coalition of groups, officers should work with that group or those groups to facilitate their strategic leadership of the council. But this does not include embracing, influencing or being party to the political priorities or electoral aspirations of any group.
- 3.3 Officers should also assist individual members and other political groups to use the mechanisms available to question and challenge decisions or actions of the council or committees. This would include advising on the appropriateness of particular mechanisms, but not (for example) on lines of criticism.
- 3.4 It is important to recognise that officers are accountable to their respective Head of Service, who in turn are responsible to the Chief Executive and Deputy Chief Executive. Whilst officers must seek to assist all members, in doing so, they must not go beyond their legitimate authority. The Chief Executive has statutory responsibility for the proper organisation and management of the council’s staff, and therefore has overall responsibility for the direction and management of all its officers.

4 INFORMATION

- 4.1 The Council believes in open government. Members have the same rights to see information held by the council as members of the public. They also have additional legal rights to see information which they need to perform their duties as a member. But they do not have a right to see information which is exempt from the disclosure provisions of the Freedom of Information Act 2000 and which it is not necessary for them to see to perform their duties. The information that a member needs to see to perform their duties will differ depending on the position that a member holds (for example, leader or committee chairman).
- 4.2 Members should direct requests for information to officers of appropriate seniority. Officers who receive a request for information from a member should respond promptly to the request, either by providing the information, passing on the request to another officer (and informing the member that they have done so), or explaining to the member why the information cannot be provided.
- 4.3 An officer below head of service level who is minded to not provide information which has been requested by a member should not make a final decision on the request until they have discussed it with his/her/their Head of Service, who should discuss the request with the member. The Chief Executive must, at the member’s request, review a decision to refuse access to requested information. This is without prejudice to the member’s right to exercise any remedy under the Freedom of Information Act 2000.

5 ACCESS TO PROPERTY

- 5.1 Members may, subject to security, health & safety, information governance and data protection considerations, enter any property, and any part of that property, in the occupation of the Council in the performance of their duty as a member.
- 5.2 Officers shall make arrangements to admit a member to enter such property on the receipt of a reasonable request from the member.

6 ACCESS TO OFFICERS

- 6.1 Members may consult and meet with any officers during the working hours of the Council.
- 6.2 Officers shall respond promptly to a request from a member for a meeting.

7 USE OF COUNCIL FACILITIES

- 7.1 In the performance of their duties, members have the right to use facilities provided for their use such as the Members Room.
- 7.2 Officers shall provide assistance on request to members to enable them to make use of the facilities.
- 7.3 Members shall ensure that their use of such facilities is strictly for their duties as a member and for no other purpose.

8 GROUP MEETINGS

- 8.1 No officer of the Council shall be obliged to attend a meeting of a political group.

9 POLITICAL NEUTRALITY

- 9.1 Members are entitled to receive the same courtesy, service and respect from Officers, whatever their political group. Members should respect the political neutrality of officers and should avoid any action which might compromise that neutrality.

10 AGENDAS AND BRIEFINGS

- 10.1 The lead officer for each committee (either Executive, scrutiny or regulatory) has responsibility for settling the agenda for each committee meeting working closely with the Chairman of the committee together with the designated committee officer in the Democratic Services team.
- 10.2 Members of the Senior Management Team will always be fully responsible for any report submitted in their name, and the contents of the respective reports based on their professional judgement. In exceptional circumstances, one of the council's statutory officers may be under a duty to submit a report and it should be noted that the committee chairmen are not entitled to require the removal of items from agendas.
- 10.3 The Chairman and Vice-Chairman of a Committee etc are entitled to receive a briefing, during normal office hours (or, by arrangement, after normal office hours), by officers on reports to be submitted to that meeting at a time convenient to the members prior to the meeting and on general business connected to the business of that committee.
- 10.4 The support which officers provide can take many forms ranging from a briefing meeting with a Chairman prior to a meeting, through to a presentation to a wider group. Whilst in practice officer support is likely to be in demand from whichever party is for the time being in control of the Council, such support is available to all party groups together with non-aligned members.

10.5 No conclusions reached at a briefing or other meeting described in 10.3. above can be acted on as a decision in relation to a matter of council business and such meetings form a part of the preliminaries only to decision-making. It is essential that they are not communicated, interpreted or acted upon as though they have official status.

11 CORRESPONDENCE

11.1 Official letters and correspondence on behalf of the council should normally be sent out in the name of the appropriate officer rather than in the name of a member. However, it is accepted that there will be occasions when it will be appropriate for members in positions of responsibility to send correspondence on behalf of the council, for example ministerial correspondence with the Leader of the council. Letters to create obligations, confirm or deny the acceptance of liability, or give instructions on behalf of the council should generally be sent out by the appropriate senior officer.

11.2 Officers will reply promptly to correspondence from members, consistent with their other duties, endeavouring to do so within 48 working hours. Emails or messages sent outside working hours will be considered as being received on the next available working day.

12 COMMITTEE MEETINGS

12.1 All members are entitled to receive advice from members of the Senior Management Team on how best they can pursue issues that they wish the council to consider, including placing items on agendas before committees.

12.2 Members have a right to have the way they have voted on an issue recorded in the minutes of a council or committee meeting. The request of any officer that the minutes of a meeting record the advice of that officer on any matter where members have decided not to follow that advice shall be complied with.

12.3 It is particularly important to recognise that officers giving advice to a formal Committee or Council etc meeting are constrained in their ability to respond to any behaviour amounting to a personal attack or unnecessarily persistent questioning by a member. It is unacceptable for a member to pursue a course of conduct, which places an officer in this position. It is important to remember that officers are under a clear duty to give appropriate advice to members, even where they suspect it might be unpalatable and it is important that officers should not be placed in a position where they feel under pressure to suppress their professional advice. Accordingly, if any member is unhappy with the advice received from an officer, they should not persist in raising the matter at the meeting but should register their concern and intention to raise the issue with the Chief Executive or Deputy Chief Executive later. Similarly, members shall not be subject to abuse or criticism by officers either directly or indirectly.

12.4 The Chairman of the meeting should be very much aware of the need to ensure an officer is not subjected to undue criticism whilst giving advice to members and should intervene to present such a situation from continuing.

13 MEMBERS' PERSONAL DEALINGS WITH THE COUNCIL

Members shall never seek or accept, and officers shall never offer, preferential treatment to a member in their personal dealings with the Council. Similarly, members shall never seek preferential treatment for friends or relatives, or any firm or body with which they are personally connected.

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Officers are responsible to the council as their employer, but that responsibility is first expressed through the management structure. No member has any rights to appoint, dismiss or discipline officers other than in accordance with Standing Orders through the chairmanship of an appropriate Committee. Members shall not become involved in individual staffing matters. Neither members nor officers shall lobby any other members in support of any employment decision affecting an individual employee or applicant for employment.

15 MONITORING OFFICER AND CHIEF FINANCIAL OFFICER

15.1 The Monitoring Officer and the Chief Financial Officer have statutory duties to report anything which the authority has done, or proposes to do, which is unlawful, or which would constitute maladministration.

15.2 No member shall attempt to obstruct the performance of this duty by these officers.

16 CONFIDENTIALITY

16.1 Officers who acquire information from members which members request should remain confidential shall comply with such a request if it is possible to do so without infringing the Freedom of Information Act 2000.

16.2 As much information as possible shall be available to the public. It is open to a Committee to consider designating items as exempt subject to the public interest tests being considered.

17 FAILURE TO COMPLY WITH THE CODE

17.1 Any member or officer who knows or suspects that an officer has failed to comply with the provisions of the code may bring the matter to the attention of the Chief Executive or follow the Council's whistleblowing policy and procedure. Any action to investigate the alleged breach of the code shall be conducted in accordance with the Council's disciplinary procedure.

17.2 Any member or officer who knows or suspects that a member has failed to comply with the provisions of this code may bring the matter to the attention of the Chief Executive who may raise the matter with the member concerned and take whatever further action which may be appropriate.

18 REVIEW

This code shall be reviewed on a regular basis.

INTRODUCTION

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