

PROTOCOLS FOR MEMBER-OFFICER RELATIONS

1. WHY PROTOCOLS

- 1.1 The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another. It aims to promote the high standards in public office that are required for a modern local government. The government has stated that without such high standards, local government's powers will not be extended.
- 1.2 Each Group Leader and the Chief Executive has endorsed this code as setting the standard for the conduct of officers and Members in Barnet.

~~Andrew Travers~~ John Hooton
Chief Executive

Barry Rawlings ~~Alison Moore~~ Richard Cornelius
Leader of the Leader of the
Labour Group Conservative Group

- 1.3 The Nolan Committee report lays down ten principles of public life.

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to Uphold the Law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do, to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership, and by example, and should always act in a way that secures or preserves public confidence.

- 1.4 These protocols seek to establish the roles and responsibilities of Members and Officers to avoid confusion and misunderstanding. Both Officers and Members need to understand the pressures both sides are under. Most problems between Members and Officers arise not from disagreements about policy but from a failure to understand the pressures that each other face when trying to make and implement policy.

2 THE ROLE OF MEMBERS

- 2.1 Members are elected democratically. It is their policies, ideas and decisions which people vote for. Members set the core values of the organisation, agree a policy framework, set the corporate goals and promote the Council in all its work. Members are also the key channels of democratic accountability,

ensuring that Officers uphold the values of the organisation and deliver those policies that have been determined by democratic means. Members are the channel for the voices of the people in their wards.

- 2.2 The Council meets as a body when all its Members are summoned to attend a Council meeting. This meeting has responsibility for specific functions. The Council can delegate authority to committees and sub-committees of Members (and co-opted members in some circumstances) and to Officers. So when Members meet as a committee or sub-committee they can take decisions and act on behalf of the Council, within that body's terms of reference and delegated powers, again subject only to the law.
- 2.3 Members will also be involved in a variety of less formal meetings, correspondence and discussions with other Members, Officers and people outside the Council, to help the Council develop policies and deliver services.
- 2.4 Members may have different roles:-
- the policy making role - deciding the broad direction of Council policy and how those policies are to be delivered in practice
 - the scrutiny role - holding the committees and officers and other local public services to account for their decisions and actions
 - the ward member role - representing the interests of individual residents or residents groups within their ward, in the overall public interest.
- 2.5 The Officers of the Council will support all Members to enable them to perform these roles effectively in the interests of the Council and the public. They will provide support, information and advice to Members to help them in these roles in accordance with these protocols.

3. **SUPPORT SERVICES FOR MEMBERS**

- 3.1 The Council provides a range of support services for Members. These include computer hardware and software, telephones, stationery and office equipment which can be selected by the individual member, subject to a maximum cost allowance for each Member, the use of photocopying facilities and postage. Each political group has its own office, and the Council employs two political assistants (Labour and Conservative) to help Members of that group in their work.
- 3.2 The only basis on which the Council can provide support services of this kind to Members, is to assist them discharge their role as Members of the Council. They are for use on Council business and to help Members in their roles as advocates for their local communities. They should not be used in connection with party political campaigning. Each Member wishing to use these support services is asked to sign detailed protocols as to their use. These cover the operation of the notional allowance, the mail room, the need to avoid using the facilities for party political purposes or for campaigning, the use of unavoidable spare capacity, the processes for ordering, maintaining, insuring and returning equipment personal taxation issues, authority to use software licences and data protection.

- 3.3 The Chief Executive will from time to time arrange training programmes for Members. These might involve induction for new members, presentations and discussions on particular topics, and training in specialist areas of the Council's work, for example planning. Sometimes training may be a requirement before a Member can take part in a specialist committee. Training may be for all members of the Council or targeted at members of particular committees.
- 3.4 The Council runs a mayoral car with a chauffeur and a second car for use on official business when the mayoral car is unavailable or inappropriate. These vehicles can only be used by members or officers for official Council purposes.

4. **MEMBERS' RIGHTS TO INFORMATION NOT RELATING TO COMMITTEES AND COUNCIL MEETINGS**

- 4.1 Barnet has adopted a policy of Open Local Government. This means information will be provided to members of the public and Members of the Council unless it falls within a list of items which are exempt or confidential or for other legal reasons. Members' rights of access to other information held by the Council are set out in the Members' Information Management Policy.

- 4.2

- 4.3 Unless specifically authorised to do so, a member of the Council shall not:

- 4.7.1 issue any order for any work which is being carried out by or on behalf of the Council or
- 4.7.2 claim by virtue of his/her membership of the Council any right to inspect or to enter upon any land or premises which the Council has the power or duty to inspect or enter.

- 4.4 Officers should keep Ward Members informed about local matters affecting their wards to enable them to effectively represent the views of their communities. Where it has been indicated that information provided to Ward Members is of a confidential nature, the local Ward Member must not make public nor make personal use of any information or material supplied to them.

5. **THE ROLE OF OFFICERS**

- 5.1 Officers can also have a variety of roles.

- They must advise Members to help them to take decisions;

- Some Officers have personal statutory powers and duties, for example, the officers designated as Head of Paid Service (Chief Executive), the Chief Finance Officer, the Monitoring Officer, Director of Adult Social Services and Director of Children's Service. Others, such as the Registrars of Births, Deaths and Marriages or Health and Safety at Work Inspectors, work under special statutory regimes;
 - The Council has given delegated powers to Directors and Chief Officers so that they can act and take decisions on behalf of the Council in many areas, provided they follow the rules of delegation and Members have access to their decisions; and
 - The Council is a very large organisation, and officers have a role to play within the organisation itself.
- 5.2 The organisational role of Officers has two important dimensions. Some Officers have professional skills relevant to a particular organisational task. Others have a primarily managerial responsibility. Many have elements of both in their job.
- 5.3 Professional Officers reasonably expect to have the opportunity to give 'honest advice' and to have their professional integrity respected (e.g. not be required to make recommendations they cannot professionally support) and the chance to 'explain' what appears to be a performance failure or inconsistency. Their task is facilitated by clear political guidance and policy.
- 5.4 In addition, Members and Officers must understand there is a clear and acceptable division of responsibilities regarding policy and implementation. It is the duty of officers to manage the implementation of policy. This does not necessarily imply no Member involvement in implementation issues, but rather a set of understandings which both parties can agree to.
- 5.5 Officers service the whole Council. They work to the instructions of their Director/Assistant Director, Lead Commissioner or Head of Service or the Chief Executive - not individual Members of the Council, whatever office the Member might hold.
- 5.6 Officers should always know that they must:-
- pursue every known lawful policy of the Council
 - implement the decisions of Council, committees and sub-committees
 - inform Members immediately of any decision that they cannot fully implement
 - be helpful and respectful to Members
 - behave in a professional manner
 - serve all Members, not just those of the Administration group(s)
 - maintain confidentiality
 - deal with Member enquiries efficiently
 - strive continually to comply with the Council's performance management and scrutiny processes

- support Members in their role as ward Councillors.

6. **THE COUNCIL AS EMPLOYER**

6.1 Officers are employed by the Council (there are a few exceptions in special cases) and both they and the Council are governed by their contracts of employment and the Council's personnel procedures.

6.2 In making employment decisions, the key principles to follow (derived from the Nolan report) are:-

- Members should not gain financially or personally, nor should their family or friends
- Members have a duty to declare any private interest, and to protect the public interest
- Members should therefore have no involvement in employment or recruitment cases in which they have a personal interest of this kind
- In making public appointments or recommending people for rewards or benefits, Members must make choices on merit, using objective criteria
- Members should be open about, and are accountable for, the decisions they make in the role of employer. However, some employment matters should be dealt with in confidence.

6.3 Members should remember that, although the Council has an open access to information policy, there is no automatic right to information about:-

- any individual applicant to become an employee, or
- any individual who is an employee (this includes details of grade and pay, and any disciplinary, grievance or other employment issue that involves a particular employee), or
- consultation or negotiations over any labour relations matter

6.4 When acting as employer, Members are bound by the complete framework of national and European employment law and may be personally liable for decisions which discriminate on the basis of race, gender or disability. The Council is an equal opportunity employer and members should be guided by this principle in all their relationships with staff.

6.5 In addition under the Constitution,

- Members must not solicit a job with the Council for any person (but may give them a written testimonial)
- Canvassing support for a candidate for a job with the Council disqualifies the candidate from that job.

6.6 Political activities and affiliations may only be taken into account in recruitment in relation to the specific posts of political assistant. These are subject to special legal rules.

- 6.7 Members will be involved in individual staffing matters if they are a member of a Committee or Panel set up for that purpose. The Constitution sets out the role of relevant committees for Chief Officer Appointments, and for disciplinary and grievance processes relating to the Chief Executive, Directors and Chief Officers.
- 6.8 In other circumstances, however, Members must not become embroiled in the management of the Council (for example, all other disciplinary, capability or grievance processes are officer-only affairs). They must not engage in activities which might undermine the management line of command or adherence to Council personnel procedures, or try to influence the recruitment process.
- 6.9 Likewise, Officers must not raise directly with Members any personal matter to do with their jobs, or relating to any potential appointment.

7. **MONITORING THE PERFORMANCE OF OFFICERS**

- 7.1 Members set the policy framework of the Council. Officers are responsible for running services within the agreed budget and policy framework and guaranteeing that strong scrutiny and performance management systems are in place.
- 7.2 Members have a right to criticise reports or the actions taken by Officers, but they should always:-
- avoid personal attacks on Officers
 - ensure that criticism is well founded.
- 7.3 Complaints about officers or Council services should be made to the Director/Assistant Director/Lead Commissioner or Head of Service where a Member feels the fault lies or to the Chief Executive, Monitoring Officer or Chief Finance Officer as appropriate. Members have a duty to raise any issues that they have reason to think might involve fraud or corruption of any sort.
- 7.4 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. In general Officers are unable to 'answer back' or defend themselves against criticism in a public forum.

8. **MEETINGS**

- 8.1 Both Members and Officers should take proper account of pressures each is under when arranging meetings particularly at short notice.
- 8.2 Ward members cannot always expect Officers to attend meetings arranged by them without prior consultation.

9. **OFFICER ADVICE/POLITICAL NEUTRALITY OF OFFICERS**

- 9.1 There is statutory recognition for party groups and sometimes consultation is required with committee chairmen. It is common practice for meetings to give

preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision-making body or officers under delegated powers. .

9.2 The extent to which it is appropriate for Officers to attend meetings of this kind depends on the nature of the meeting, but the general principles governing the basis on which they attend and take part are the same. In principle, equivalent facilities are available to all political groups represented on the Council if they so request.

- Officers, apart from political assistants, should not attend party group meetings, or party political meetings involving party colleagues who are not members of the Council, without the agreement of the Chief Executive. Conversely, the Chief Executive may arrange meetings with, or presentations to, party groups on particular topics.
- Officers may make presentations to party groups of members of the Council on request. All requests for advice of this kind should be routed through the Chief Executive who would be responsible for advising the other groups who could then ask for the same briefing.
- Officers may attend briefing meetings with the Leader of the Council, Chairmen and Vice-Chairmen, either on a specific topic or prior to a formal meeting or the like.
- Officers may meet Chairmen prior to consulting them formally as a precondition to exercising delegated powers.
- Officers may attend for briefing with the Leader and Lead Members of all political parties on the Council in their offices.
- The Leader of the Council may arrange regular meetings and invite Directors and other senior officers to attend, in accordance with the following principles.

9.3 Certain points must however be understood by all those participating in this type of process, Members and Officers alike. In particular:-

- (a) Officer support in these circumstances should not extend beyond providing information and advice in relation to matters of Council business, and Officers should not be expected to be involved in advising on matters of party business.
- (b) Such meetings, whilst they may form part of the preliminaries to decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions, and should not be interpreted as such.
- (c) Similarly, where Officers provide information and advice to such meetings in relation to a matter of council business, this cannot act as a substitute for providing all necessary information and advice to the relevant body when the matter in question is considered.

9.4 Special care needs to be exercised if Officers are involved in providing information and advice to a party group meeting which includes persons who

are not Members of the Council. Such persons will not be bound by the National Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a meeting where those in attendance are bound by the provisions of the code.

- 9.5 Officers must respect the confidentiality of any discussions at which they are present with Members. If officers receive information which, although confidential, they have a duty to disclose elsewhere, they must indicate that this is the case.
- 9.6 Any particular case of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).
- 9.7 Officers must never allow their own personal or political opinions to interfere with their work. Officers should not take part and Members should not ask officers to take part in any activity which could be seen as influencing support for a party. Members should raise with the Chief Executive any concerns about the political neutrality of an officer.
- 9.8 Senior officers and political assistants are subject to legal rules limiting their political activities outside work.
- 9.9 The protocols governing the duties of political assistants are summarised below:-
 - They are Council employees and subject to Council contracts of employment, *the Council Constitution* and staff instructions.
 - They cannot stand in for Members at events or decision-making bodies, although they can attend as non-speaking observers, but not as representatives.
 - Each group has appointed a group officer to direct day to day work.
 - They cannot be required to breach the Council Constitution, the terms of their contract of employment or the legal restrictions on them.
 - They must respect confidentiality regarding the party, group and individual Members.
 - The Chief Executive deals with appointment, induction, discipline and grievances. The representatives of the Groups will conduct the appraisals. The Chief Executive will ensure the appraisals are undertaken by the Groups.
 - Council Officers will not require the assistant to divulge confidential information regarding the group, its dealings or its members.

- The assistant's normal contact points are members of Service Management Teams, Policy Officers and Governance Service. In making contact the assistant must be careful not to misrepresent the intentions of the group, and must clarify whether they are representing the whole group or individual members.
- The existence of assistants should not detract from normal Member/officer relationships.
- They cannot access files that a Councillor cannot access, unless the Councillor has demonstrated the need to know.
- In external relationships, they must make it clear that they are acting on group instructions, not for the whole Council. They must not speak to a public audience on terms which might create the impression that they are speaking as a representative of their political party.

10. **PERSONAL RELATIONSHIPS**

- 10.1 Good working relationships between Officers and Members are at the heart of good local government.
- 10.2 A relevant extract from the National Code of Local Government Conduct for Members is reproduced below:

24. "Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual councillors and officer can damage this relationship and prove embarrassing to other Councillors and Officers".

- 10.3 The Nolan report provides the following quote to illustrate its view of the correct spirit of Member-Officer relations:

"I do not think it is part of the proper relationship between Officers and Councillors if Officers are somehow seen in public as people who can be appropriately harangued or criticised or told that they do not know what they are doing. I think that the best relationship between Officers and councillors is much more a partnership relationship"
- Gerry Stoker, Professor of Government, University of Strathclyde.

- 10.4 However there is potential for improper behaviour if the normal professional relationship becomes either too cosy or too combative.

11. **EXCESSIVE FAMILIARITY**

- 11.1 Members and Officers will often work closely together and develop good relationships. This can be beneficial, but there are limits and risks for all concerned in this area and it is not enough to avoid actual impropriety. Members and Officers should at all times avoid any situation which can give rise to suspicion and any appearance of improper conduct. This includes excessive socialising between employees and individual councillors.
- 11.2 Members must declare to their Group Leader and to the Chief Executive any relationship with an Officer which might be seen as influencing their work as a Member. This includes any family, business or sexual relationships. Officers, too, have a duty to declare any such relationship to their Director or Head of Service.
- 11.3 Members must not sit on or participate in decisions by any Council committee or other Council body which directly affects an employee to whom they are:-
- the partner
 - otherwise closely related such as sisters, brothers, parents and grandparents
 - in any other relationship which would jeopardise the work of the Council or make their attendance improper under the National Code of Local Government Conduct.

This is a simplification of the requirements under the law and National Code of local Government conduct and members should refer to other more detailed guidance.

12. **COMBATIVENESS AND PRESSURE**

- 12.1 In line with the National Code's reference to 'mutual respect', it is important that any dealings between Members and Officers both written and oral should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.
- 12.2 Members must remember that Officers cannot respond to personal criticism in the same way that politicians can and should make their comments accordingly. Members need to be especially careful about contact with less senior staff and must avoid deliberately or unwittingly intimidating staff. Members and Officers should be aware that problems often arise in informal situations, where Members and Officers are sometimes prone to lose their inhibitions. This should not prevent reasonable criticism of the work of Officers by Members.
- 12.3 Members should not put pressure on an Officer on matters which have been delegated for Officer decision. This might lead Officers to make decisions that:
- are not objective and cannot be accounted for
 - favour unfairly one member of the public over another.

12.4 Nor should they bring undue influence to bear on an Officer to take any action which is against procedure or policy, such as

- a breach of personnel procedures
- a conflict with the Council Constitution
- conflict with planning procedures and policies.

12.5 Members must declare any special relationships with constituents when dealing with Council Officers. Although Members are elected to represent the interest of their constituents, they should not seek special treatment for any individual.

13. **RELATIONS BETWEEN OFFICERS AND CHAIRMEN**

13.1 It is especially important that there should be a close working relationship between the Chairmen and Vice Chairmen of committees and other bodies, Directors, Assistant Directors, Lead Commissioners, Heads of Service and other Senior Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other party groups.

13.2 Whilst the Chairmen will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that the Director, Assistant Director, Lead Commissioner or Head of Service will always be fully responsible for the contents of any report submitted in his/her name and the Chief Executive for preparing the agenda. Members must not seek to influence an officer to limit or modify recommendations put forward or withhold information which s/he should properly report.

13.3 Officers within a service are accountable to their Director, Assistant Director, Lead Commissioner or Head of Service. Whilst Officers should always seek to assist Members they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director, Assistant Director, Lead Commissioner or Head of Service, and should not be expected to do so.

14. **WHISTLEBLOWING**

14.1 The Council has adopted a Whistleblowing Policy and Procedure. This sets out the process under which Officers can raise concerns with the Whistleblowing Officer, or, with the Monitoring Officer. It sets out how this works, and the responsibilities of the people concerned.

14.2 The Council neither tolerates improper conduct by its employees or Members, nor the taking of reprisals against those who come forward to disclose such conduct. It is committed to the highest possible standards of openness, probity and the aims and objectives of the Public Interest Disclosure Act 1998. As such all Members have a duty to comply with the Council's Whistleblowing policy and;

- promptly raise with the council's Whistleblowing Officer, Monitoring Officer or Chief Executive any irregularities and matters which they feel have been dealt with improperly

- provide them with all the evidence or relevant information they have.
- 14.3 In particular, Members have a duty to raise any issues they have reason to think might involve fraud, corruption, bribery, money laundering activity or safeguarding issues.
- 14.4 In accordance with the Whistleblowing Policy, any person who makes a report in good faith will be protected from victimisation or reprisal.
- 14.5 No action will be taken against any person if a report has been made in good faith, but is not confirmed by the investigation.
- 14.6 Conversely, any person should not make a report, which they do not reasonably believe to be true, or which is malicious. Disciplinary proceedings may be taken against any workers who makes false allegations maliciously or with a view to personal gain.
- 14.7 The provisions of this code are in addition to the right of any Member or employee to raise an issue of concern with an appropriate body outside the Council.