

**STEVENAGE BOROUGH COUNCIL
MEMBER/OFFICER RELATIONS PROTOCOL**

A INTRODUCTION

1. A Member/Officer protocol is one of the required documents for the Council's Constitution. Although the Members' Code of Conduct was adopted in April 2002 the long awaited statutory code for officers has not yet been produced by the Government and a draft is not now expected much before the end of 2003. Clearly the Officer Code could affect the Member/officer protocol but the Standards Committee considered that the Council should wait no longer before introducing this Protocol which it now endorses.
2. Given the variety and complexity of Member and Officer relations, this Protocol does not seek to cover everything or be prescriptive in its application. General guidance is offered on some of the issues that most commonly arise or cause concern. It is hoped, therefore, that the approach, which this Protocol adopts, will serve as a guide to dealing with other issues that may arise from time to time.
3. This Protocol seeks to encourage best practice and to promote greater clarity and certainty between the various relationships. If any Officer is unsure about any matter, s/he should contact the relevant Chief Officer and/or the Monitoring Officer. If there is any disagreement in the interpretation of this Protocol, the opinion of the Chief Executive and/or Monitoring Officer will prevail.
4. The Standards Committee and the Monitoring Officer has issued general guidance on Stevenage's Members' Handbook on Members' Conduct. Where appropriate, the Monitoring Officer will also consult the Chief Finance Officer (the Director of Resources), the Chief Executive and the Political Groups on any further general guidance. *A new protocol is being considered for planning matters and it is anticipated that a national code will be introduced for Officers.*

B GENERAL MEMBER / OFFICER ISSUES

5.1 The opportunity is taken to **reinforce** the following points:

- (i) In order to ensure the business of the Council is transacted in an effective and efficient manner and with a view to ensuring that the Council is not brought into disrepute, the **key guiding principle** for Members and Officers has to be one of **"engendering mutual trust, openness, honesty, fairness, transparency and treating everyone with respect"**;
- (ii) Officers, being employees of the Council, must act in the best interests of the Council, as a whole, and must not give politically partisan advice. Anyone breaching this requirement, will face disciplinary action and may, ultimately, be dismissed by the Council;
- (iii) Political Group meetings, whilst they perform an important part in the preliminaries to Council decision-making, are **not** formal decision-making bodies of the Council and, as such, are **not** empowered, even under the new constitutional arrangements, to **make** decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as **Council** decisions and it is essential that Members and Officers understand and interpret such decisions accordingly;
- (iv) Officer support to Political Groups must **not** extend beyond providing information and advice in relation to **Council business** (not Party politics/business);
- (v) it is good practice for Party political debates and decision-making to take place **in the absence of** Officers, in order to avoid any suspicion of impropriety or misunderstanding;
- (vi) Officers must respect the confidentiality of any Political Group discussions; and
- (vii) any breach of this part of the Protocol by an Officer must be brought to the attention of the Chief Executive and / or the Monitoring Officer for consideration.

Legal and District Audit Considerations:

5.2 Members of the Council do not, as elected members, have any special immunity from civil or criminal wrongs that they may commit against fellow Members, Officers or members of the public. Members must abide by Stevenage's Code of Conduct for Members and ensure they do not, for example, slander or libel another person. During the course of personal meetings, Members will have some protection against prosecution or civil action.

5.3 Members must also not pressurise any Officer to change his/her professional opinion on any Council business matter or do anything that compromises, or which is likely to compromise, the impartiality of Officers or those who work for, or on behalf of the Council. It is also imperative that Members are clear about their roles and the roles of Officers, so as to avoid getting inappropriately involved in, for example, the internal

office management, discipline and/or other employment related issues, as the actions of the Member(s) may be held to be the actions of the Council, as an “employer”.

Standards Board for England Issues:

- 5.4 Any member of the public (including Officers) can complain to the Standards Board for England against a Member’s breach of Stevenage's Code of Conduct for Members and/or bring private civil litigation proceedings against an elected member. The District Auditor can also take legal action against an elected member and the Council, as a whole, for any breaches of the law.

Public Relations Issues:

- 5.5 The Council’s Media Team are responsible for dealing with the press and other media organisations on behalf of the Council. It is important, therefore, that all official communication relating to the Council (but not party political or private matters) is dealt with by this team, so as to ensure the proactive, effective and efficient management of the Council’s public image, relations and interface.

C SPECIFIC POINTS ON MEMBER / OFFICER RELATIONS

- 6.1 The relationship between Members and Officers generally is characterised by mutual trust, respect and courtesy. These are **essential** for good local government and serve to enhance local democracy.
- 6.2 Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided, therefore, that could give rise to suspicion and/or appearance of improper conduct or behaviour. This includes excessive socialising between Members and Officers.

Employer/Employee Issues:

- 6.3 Any dealing between Members and Officers should, therefore, be conducted with mutual trust, respect and courtesy, and neither party should seek to take an unfair advantage of his/her position. In particular, Members should recognise and pay due regard to their role as an employer in their dealings with Officers, as Officers could use inappropriate behaviour and conduct of Members in bringing employment cases against the Council. In particular, it is quite proper for a Member to make written/oral representations about his/her constituent employee to the relevant Chief Officer, but the Member should avoid taking a proactive part to represent or in any other way advocate on behalf of any such employee in any disciplinary procedures brought by the Council against any such employee.
- 6.4 Members must, in particular, guard against putting inappropriate pressure on junior officers and must ensure that all communication between them (including written communication) does not bring the Council into disrepute, cause any embarrassment to them, or lead to the breakdown of mutual trust, respect and courtesy in Member/Officer relations.
- 6.5 In seeking advice and support, Members should have due regard to the seniority of the Officer with whom they are dealing and recognise that, whilst those Officers owe an overriding a duty to the Council as a whole, such duties are first expressed to their respective line managers and the Chief Executive and not to any individual Member. For this reason, Members should not give direct instructions to staff, unless they are duly authorised to do so by Stevenage's Constitution as Executive Members. If so authorised, instructions should, under normal circumstances, still be given to the relevant Chief Officer and not to a more junior Officer.

Equality Issues:

- 6.6 The Council has statutory duties with regard to equality issues and in accordance with Stevenage's Code of Conduct for Members, Members must also promote equality by not discriminating against others. Members and Officers shall not, therefore, by their behaviour or speech act discriminatory with regard to, for example, a person's gender, race, disability, religion, ethnicity, nationality or sexual orientation. Such principles will apply to the implementation of personnel policies, recruitment and promotion as they apply to day-to-day dealings with fellow human beings.

Officer Conduct or Capability Issues:

- 6.7 Members should not raise matters relating to the conduct or capability of an Officer (or of Officers, collectively) at meetings held in public or before the Press, as Officers have no means of responding to the same in public. If any Member feels that s/he has not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an Officer, s/he should raise the matter, in private, with the relevant Officer and, if necessary, the Chief Officer of the department concerned. Any concerns with regard to a Chief Officer should be discussed, in private, with the Chief Executive and/or the Leader of the relevant Political Group. Whispering campaigns against Members and Officers do not project a healthy environment for engendering mutual trust, openness, honesty, fairness, transparency, respect or courtesy and should be avoided.
- 6.8 Members will be in breach of Stevenage's Code of Conduct for Members if they require any Officer to:
- (a) change his/her professional advice; or
 - (b) take any action which the Officer considers to be unlawful or illegal or which could amount to maladministration or breach any relevant Codes of Conduct (including professional codes of conduct).

Monitoring Officer/Chief Finance Officer Consultations:

- 6.9 Members are required to consult with the Monitoring Officer and the Chief Finance Officer over any legality, maladministration, financial impropriety, or probity issues or where they have any doubt as to whether particular decisions are or were likely to be contrary to the Council's policy framework, the budget or the law. Inappropriate or late consultation will not satisfy the need to consult those Officers at the relevant time.

Political Groups/Assistants:

- 6.10 Members of the Executive, Scrutiny and Regulatory Committees shall, at all times, respect the political impartiality of Officers and must not expect or encourage Officers to give a political view on any matter.
- 6.11 For the avoidance of doubt, it must be recognised by all that, in discharging their duties, Officers serve the Council, as a whole, and not exclusively any Political Group, combination of groups, or any individual Members.
- 6.12 Officers may properly be called upon to support and contribute to the deliberations of Political Groups but they must, at all times, maintain political neutrality. This applies, in particular, to Politically Restricted Officers, who are governed by the Local Government and Housing Act 1989. All Officers must, in their dealings with Political Groups and individual Members, treat them in a fair and evenhanded manner.
- 6.13 Any request for advice given to a Political Group or Member will be treated with the strictest of confidence by the Officers concerned and will not be accessible to any

other Political Group(s). Factual information upon which any advice is based will, if requested, be available to all Political Groups.

6.14 When attendance is requested for Political Group meetings:

6.14.1 the request to attend a Political Group meeting must be made through and approved by the Chief Executive, unless otherwise agreed by the Chief Executive;

6.14.2 such a request can only be made in relation to Council business; and

6.14.3 Officers will:

- (i) provide relevant factual advice and assistance;
- (ii) leave during the deliberations of the Political Group on the issue;
- (iii) respect the confidentiality of any Political Group decision at which they are present; and
- (iv) not champion, defend, action or spend any resources of the Council, or be held responsible for actioning in any way whatsoever the decisions of the Political Group(s), unless and until such decisions have become the formal decisions of the Council.

D Specific points on Overview and Scrutiny Arrangements

7.1 The Council's Overview and Scrutiny Committees will seek the advice of:

- (a) the Monitoring Officer, where they consider there is doubt about the legality of any Executive decision(s); or
- (b) the Monitoring Officer and other relevant Chief Officers, where they consider a decision (or decisions) of the Executive might be contrary to the Council's policy framework.

7.2 When considering calling Officers to give evidence to any Overview and Scrutiny Committee, the Chairman of that Committee shall not, without the consent of the relevant Chief Officer, request the attendance of a junior Officer.

7.3 When asking Officers to give evidence before any Overview and Scrutiny Committee, questions should be confined, so far as is possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Officers must respond to questions from Members in an open, constructive and helpful manner. Officers must not mislead or be economical with the truth.

7.4 Where they consider it appropriate, the Chairmen of the relevant Overview and Scrutiny Committee may ask Chief Officers to explain any advice given by them to

Members of the Executive and explain any decision(s) the Chief Officer may have taken under the Scheme of Delegations to Officers. For the avoidance of doubt, any private or confidential matter must be dealt with in a private or confidential manner.

Unacceptable or Inappropriate Behaviour:

- 7.5 The relevant Chairman of the Overview and Scrutiny Committee shall ensure that Members of the Executive and Officers are not questioned (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable or inappropriate behaviour by a Member. Equally, it has to be recognised that such Committees have no jurisdiction to deal with matters, which are of a disciplinary nature for the relevant Political Group (in respect of Members) or the relevant Chief Officer/Chief Executive (in respect of Officers).
- 7.6 Any allegation of unacceptable or inappropriate behaviour by a Member, as set out in paragraph 7.5, will be reported to the Leader of the relevant Political Group for consideration and/or the Standards Board for England, if there has been a breach of the Code of Conduct for Members. The relevant Leader may also refer the matter to the Standards Committee for consideration, guidance or sanction, if the matter is not a breach of the Code of Conduct for Members.

E USE OF LOCAL AUTHORITY RESOURCES

8. The only basis on which the Council can lawfully provide support services to Members (e.g. computers, stationery, typing, printing, photo-copying, transport etc.) is to assist them in the effective and efficient discharge of their duties and role as Members of the Council. Such support services must, therefore (as per paragraph 5 of Stevenage's Code of Conduct for Members), be only used for Council business. The same should never be used for or in connection with Party Political or campaigning activities or for private purposes.
9. Accordingly, any Member, a member of the public or an Officer could report a breach of Stevenage's Code of Conduct for Members to the Standards Board for England.