

# GUILDFORD BOROUGH COUNCIL

## PROTOCOL ON COUNCILLOR/OFFICER RELATIONS

### 1. Introduction

- 1.1 Elected councillors and paid officers fulfil different but complementary roles. Councillors are the elected representatives of the community and the officers provide the professional advice and support. As stated in the Nolan report, this relationship operates at its best as one of partnership. This protocol seeks to guide councillors and officers in their relations with one another.
- 1.2 The majority of this protocol is a statement of current practice. However, it is hoped that it will ensure that councillors and officers will continue with their respective roles secure in the knowledge that, provided the conditions contained within this protocol are observed, both councillors and officers will be protected from accusations of inappropriate conduct or bias.
- 1.3 The underlying principle of councillor/officer relations will, of course, remain the same, namely that the elected councillors are responsible for agreeing policy and taking all non-delegated decisions; officers are responsible for providing advice and support, for making decisions under delegated authorities and for ensuring that all the Council's decisions are efficiently and professionally carried out.
- 1.4 The protocol is supplementary to the Councillors' Code of Conduct, which councillors undertook to be guided by in their declarations of acceptance of office after election, and Code of Conduct for Staff contained in Part 5 of this Constitution.
- 1.5 In addition to the above, the Widdicombe Committee reported in 1988 in their report of inquiry into the conduct of local authority business that:

*“Local Government has derived strength over the years from a complementary relationship between part-time councillors drawn from and representative of the general public, and full-time officers with professional expertise. We accept that this cannot be a rigid or static model. Some councillors will need to devote considerable time to council business, and there has sometimes been too great a stress on officer professionalism. Councillors moreover have the right to ensure that some of their decisions for which they are statutorily responsible and accountable are implemented by officers. Nevertheless, a merging of roles is not desirable. Councillors should leave the day-to-day implementation of council policies, including staff management as far as possible, to officers, and officers should demonstrate that they are sensitive to the political aspirations underlying those policies”.*

- 1.6 The Committee on Standards in Public Life, established by the government in 1997 recommended that all councils should adopt a protocol which should set out how the relationship would work and be tailored to each authority's traditions and practices.

### 2. General rules

- 2.1 It is important that any dealings between councillors and officers should observe high standards of courtesy and neither party should seek to take unfair advantage of their position.

- 2.2 A councillor should not raise matters relating to the conduct or capability of an officer at any public session of a meeting. In the event that any councillor has a complaint concerning an officer's behaviour, conduct or capability and is unable to resolve same through discussions with the officer concerned, they should raise the matter in the first instance with the officer's service leader or director. If after receiving a written report from the service leader or director, a councillor remains concerned, the Managing Director should be advised. In the event that a decision is taken to take action against an officer in respect of a complaint lodged by a councillor, such action shall be conducted in accordance with the Council's disciplinary rules and procedures.
- 2.3 Similarly, officers should not raise matters relating to the conduct or capability of a councillor at any public session of a meeting. Where an officer feels that he/she has not been properly treated by a councillor, they should raise the matter with their service leader, director or the Managing Director, as appropriate. In the event that the member of staff does not feel able to discuss the matter directly with the councillor concerned, the service leader, director or Managing Director will take the appropriate action by approaching the councillor concerned and/or his or her group leader.

### **3. Officer advice to councillors and groups**

- 3.1 Officers serve the Council as a whole and not any individual political group or any individual councillor.
- 3.2 The support provided by officers may involve a briefing meeting prior to an Executive, committee or sub-committee meeting, such support in whatever form it takes, is available to all councillors and all party groups.
- 3.3 There are rules for those who provide advice and support to councillors, such rules relate to both councillors and officers. In particular, the rules comprise:
- (a) Officer advice and support must relate only to matters of Council business and not to advice on political issues. In the event that an officer is of the view that it would be inappropriate to provide the advice and support requested by an individual councillor, he/she may refuse to provide same and will advise their director or the Managing Director as appropriate.
  - (b) Decisions made at party group meetings are not decisions of the Council and must not be treated or acted upon as such by either councillors or officers.
  - (c) Officers should not normally attend formal meetings of political groups.
  - (d) Where a councillor requests information from an officer, that information will not be supplied to any other councillor unless the officer supplying the information states at the time of supplying same that the information in question will be made available to other councillors.
  - (e) It must not be assumed by any group or individual councillor that an officer is supportive of any policy simply because of that officer's assistance in the formulation of that policy.
  - (f) In the event that any councillor or group requires further information of a factual nature prior to a Council, Executive, committee or sub-committee meeting or

wishes to query any facts contained in an agenda item or report, they should, wherever possible, ask the relevant officer prior to the meeting.

#### **4. Support services to councillors and party groups**

- 4.1 The Council provides a number of services to councillors, such as personal computers and IT facilities, stationery, photocopying etc. Such services are provided to assist them in discharging their role as councillors.
- 4.2 In using the Council's IT facilities and, in particular, the internet facility, councillors must comply with relevant Council policies.

#### **5. Councillors' access to information and council documents**

- 5.1 Access to accurate and up-to-date information and professional advice is vital to enable councillors to fulfil their elected role effectively. However, access to information and protection of individual and community rights is an increasingly sensitive area, and there is a great deal of legal regulation, both common law and statutory, which governs the rights and restrictions relating to councillors' access to Council-held information. This section attempts to set out the basic principles and rules to enable councillors to operate effectively within the law.
- 5.2 Councillors have a right to approach any service leader to ask for information or seek advice. This right extends only to information, explanation and such advice as they may reasonably need in order to assist them in discharging their role as a councillor. When seeking such advice or information, councillors should normally approach a senior officer of the service concerned or, on particularly sensitive matters, the service leader. In the event of any difficulty, councillors should approach the relevant director or Managing Director.
- 5.3 As indicated in Paragraph 5.1 above, the legal rights of councillors to inspect Council documents are covered partly by statute and partly by common law.
- 5.4 Councillors have a statutory right to inspect any Council documents which contain material relating to any business which is to be transacted at a Council, Executive, committee or sub-committee meeting. Such right applies irrespective of whether the councillor is a member of the body concerned and applies not only to reports which are to be submitted to the meeting in question, but also to any relevant background papers. This statutory right does not, however, apply to documents relating to items which appear within the confidential part of any agenda for a meeting.
- 5.5 There is no 'roving commission' for a councillor to examine books and documents and the common law right of councillors is based on the principle that councillors have a prima facie right to inspect Council documents so far as access to the document in question is reasonably necessary to enable the councillor to perform his/her duties. This is commonly known as "the need to know" principle.
- 5.6 To exercise the common law right, councillors must, therefore, prove a need to know. Officers will always do their best to ensure that councillors are properly informed of significant issues or events affecting their wards or other areas of responsibility. Nevertheless, the requirements of the legislation and, in particular, the Data Protection Act 1998 and the Human Rights Act 1998, make this a difficult area. In matters of concern on this issue, it is for the service leader which holds the document in question to determine whether an individual councillor has a need to know, and such service leader may seek advice from the Monitoring Officer in particular cases of

difficulty. In the event of dispute relating to a councillor's need to know, the matter will be determined by the Corporate Governance and Standards Committee.

- 5.7 In many cases, a need to know can be presumed. However, where councillors request to see documents containing confidential information, the councillor will be required to justify the request in specific terms. Certain documents will not be available to councillors. These documents may contain information which is covered by statute or may be documents which are in the possession of officers but are likely to be sensitive material, the release of which in the opinion of the officer would be prejudicial to the Council's interests.
- 5.8 Further and more detailed advice regarding councillors' rights to inspect Council documents may be obtained upon request to the Monitoring Officer.
- 5.9 Any Council information provided to a councillor must only be used by the councillor for the purpose for which it was provided (i.e. in connection with the proper performance of the councillors' duties). Attention is drawn to the relevant section of the Councillors' Code of Conduct in Part 5 of this Constitution:

"You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

- (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is:
    - (a) reasonable and in the public interest; and
    - (b) made in good faith and in compliance with the reasonable requirements of the authority.
- 5.10 Any councillor found to be or suspected of being in breach of the requirement to keep the confidentiality of items taken 'in committee' will be the subject of a report to the Corporate Governance and Standards Committee.

## **6. Officer/chair/lead councillor relationships**

- 6.1 It is obviously important that there should be a close working relationship between the chairman of a committee and the officers who report to or interact with that committee. This will also apply between the Leader, lead councillors on the Executive and the appropriate directors and service leaders. However, such relationships should never be allowed to become so close, or appear to be so close as to bring into question an individual officer's ability to deal impartially with other councillors and other party groups.
- 6.2 The Leader of the Council or the chairman of a committee or sub-committee will naturally be closely involved in the process of formulating an agenda for a meeting, and such bodies and/or the chairman may of course request that matters are placed

on an agenda. In addition, councillors will appreciate that in certain circumstances an officer will be under a professional duty to submit a report. A director, service leader or other senior officer will be responsible for the contents of any report submitted in his/her name and, therefore, any amendment to the report will only be made if such amendment reflects the professional judgement of the author of the report. Any issues arising between a chairman and a senior officer should be referred to the Managing Director for resolution, in consultation with the Council Leader.

6.3 A decision on Council business may only be taken by the Council, the Leader/Executive, a committee or sub-committee or a councillor or officer acting pursuant to delegated powers.

6.4 Finally, it must be remembered that, while officers may work closely with the Leader, committee chairmen and lead councillors, they are accountable to their service leader, director and the Council and cannot go beyond the bounds of whatever authority they may have been given by their service leader, director or by the Council.

## **7. Correspondence**

7.1 Correspondence, including e-mails, between an individual councillor and officer, particularly when it has been initiated by a councillor, should not normally be copied by the officer to any other councillor, unless the councillor who initiated the correspondence copied it to other councillors in which case the officer shall copy his correspondence to those other councillors. In the event that in certain circumstances it proves necessary to copy the correspondence to another councillor, this should be made clear to the original councillor through notation on the correspondence. A system of 'silent copies' should not be employed. Similarly, correspondence sent to all councillors or groups of councillors will make the circulation list clear.

7.2 Official letters on behalf of the Council must normally be sent in the name of the appropriate officer rather than in the name of a councillor. Letters which create obligations or give instructions on behalf of the Council must never be sent out in the name of a councillor.

## **8. Ward councillors**

8.1 Whenever a public meeting is organised by the Council to consider a local issue, all councillors representing the ward or wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, ward councillors should be notified at the outset of the exercise.

8.2 Officers will not normally attend meetings arranged by councillors unless this has been discussed and agreed with the appropriate service leader or director in advance in order that proper representation and briefing can be arranged.

8.3 Copies of correspondence to parish councils and amenity groups shall always be sent to local ward councillors, unless the correspondence contains confidential information to which the provisions of Section 5 apply.

## **9. Conclusion**

9.1 Both councillors and officers must bear in mind that mutual understanding and basic respect are the greatest safeguard of the integrity of the Council, its councillors and officers.

- 9.2 Copies of this protocol will be issued to all councillors, together with any other relevant documentation upon their election to the Council.
- 9.3 Except as specifically provided in this document, questions on interpretation of this protocol will be determined by the Monitoring Officer, unless the provision in question relates to a matter to be determined by the Managing Director.
- 9.4 The Corporate Governance and Standards Committee is responsible for reviewing the practical application of this protocol from time to time and making appropriate suggestions for its improvement and development.