

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO ACCOUNTS & AUDIT COMMITTEE

Agenda Item No.

meeting date: WEDNESDAY, 27 NOVEMBER 2019
title: REVISITING MEMBER/OFFICER PROTOCOL
submitted by: MARSHAL SCOTT – CHIEF EXECUTIVE
principal author: DIANE RICE – HEAD OF LEGAL AND DEMOCRATIC SERVICES

1 PURPOSE

1.1 To inform Members about the Member/Officer Protocol and to consider whether or not it should be reviewed.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives – } The Protocol is a public document which provides
- Corporate Priorities – } the framework within which Members and officers
- Other Considerations – } should operate.

2 BACKGROUND

2.1 The Council has a Member/Officer Protocol. A copy of the Protocol is attached as Appendix 1; it was last reviewed in May 2014.

2.2 In November 2017 the Council was the subject of a Peer Challenge Review, one of the recommendations of the Review was that the Council should re-visit its Member/Officer Protocol. No details about the issues that had been identified were provided.

2.3 The Protocol was presented as a standing item to each Committee to remind Members and officers of the guidance contained within the Protocol about the respective roles of Members and officers, and how the relationship between Members and officers should be managed.

2.4 It was also an opportunity to make suggestions to the Accounts and Audit Committee on how the Protocol could be strengthened and improved.

3 ISSUES

3.1 Committees made the following comments:

Community Services	No changes suggested
Planning & Development	No changes suggested
Personnel	No changes suggested
Health & Housing	Lack of gender-neutral language and respective accountability of Elected Members and staff. Review every 2 years with the first one being after the Borough Elections in May 2019. Include in training/induction for new Members.
Licensing	No changes suggested
Economic Development	Review after elections in May 2019
Policy & Finance	Review after elections in May 2019

3.2 It can be seen from the table at 3.1 that Members decided that if the Protocol was to be reviewed the review should be carried out after the Election of the new Council in May 2019.

3.3 Members may consider that no action is required, or that Members should have training about the Protocol, or that the Protocol should be reviewed, in which case the Working Group formed to review the Council's governance arrangements could also carry out a review of the Protocol.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – N/A.
- Technical, Environmental and Legal – N/A.
- Political – N/A.
- Reputation – N/A.
- Equality & Diversity – N/A.

5 **RECOMMENDED THAT COMMITTEE**

5.1 Note the terms of the Council's Protocol for Member/Officer Relations.

5.2 Note the comments at 3.1 made by the various Committees.

5.3 Decide whether to review the Protocol.

4.4 If the Protocol is to be reviewed ask that the Working Group appointed to review the Council's governance arrangements (Member Conduct) also carry out a review of the Member/Officer Protocol.

DIANE RICE
HEAD OF LEGAL AND DEMOCRATIC SERVICES

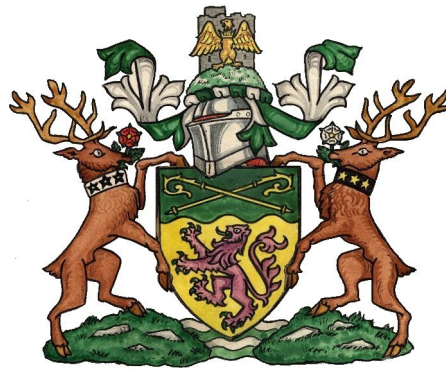
MARSHAL SCOTT
CHIEF EXECUTIVE

BACKGROUND PAPERS

(If any)

For further information please ask for Diane Rice, extension 414418.

REF: DER/CMS/A&A /271119



**RIBBLE VALLEY
BOROUGH COUNCIL**

**A Protocol for
Member/Officer
Relations**

May 2014

RIBBLE VALLEY BOROUGH COUNCIL

MEMBER/OFFICER PROTOCOL

1. INTRODUCTION

- 1.1 Ribble Valley Borough 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 purpose of this Protocol is to guide both members and officers of the Council in their relationships with each other. It sets out and stresses the need for mutual respect between councillors and officers, based on an understanding of their respective roles and on the need to maintain the highest standard of personal and professional conduct at all times.
- 1.2 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.
- 1.3 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.
- 1.4 The Protocol forms part of the Council's constitution and as such is available for public inspection.

2. PRINCIPLES UNDERLYING MEMBER-OFFICER RELATIONS

- 2.1 Both members and officers are servants of the public, and they are indispensable to one another. However their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and the Council and to carry out the Council's work under the direction and control of the Council, its committees and sub-committees.
- 2.2 Mutual respect between Members and Officers is essential to good local government.

3. ROLES OF MEMBERS

- 3.1 All members have important roles under the Council's constitution and all are subject to the same ethical framework and code of conduct. These roles include:
- representing the views of their constituents;
 - acting together as the full Council; and
 - membership of committees, sub-committees and working groups.
- 3.2 The Council and its committees are responsible for setting policies, service and performance targets and ensuring that they are delivered. They are accountable to the electorate for the delivery of policies and services. It is important to note that the law only allows for decisions to be taken by the Council, a committee or sub-committee or by an Officer. The law does not allow for decisions to be taken by a committee Chairman or by an other single member.
- 3.3 Members are not normally expected to be involved in the implementation of policies or the day-to-day management of services, but can expect reports on progress.
- 3.4 It is appropriate, however, for Members to propose initiatives and ideas about how things can be done better. It is essential that existing ways of doing things are challenged and reviewed. This needs to be done in a professional and constructive environment. Where Members have initiatives and ideas they should discuss them with the Director concerned and a way forward agreed by the parties concerned. This will usually be through the appropriate committee.
- 3.5 The Code of Conduct for Members has a number of provisions which are relevant to the relationship between Members and Officers. These are as follows:-
- A member must treat others with respect [Para.3(1)].
 - A member must not do anything which compromises or which is likely to compromise the impartiality of those who work for, on behalf of, the authority [Para. 3(2)d].
 - A member must when reaching decisions have regard to any relevant advice provided to him by –
 - (a) the authority's chief finance officer acting in pursuance of his duties under section 114 of the Local Government Finance Act 1988 or an equivalent provision in any regulations made under section 6(6) of the Local Government and Housing Act 1989; and
 - (b) the authority's monitoring officer acting in pursuance of his duties under section 5(2) of the Local Government and Housing Act 1989 (Paragraph 6).

4. ROLES OF OFFICERS

- 4.1 Officers are responsible for advising the Council and its Committees on policy and its implementation. They have a duty to give impartial advice to all Members. All officers are employed by, and accountable to, the local authority as a whole.
- 4.2 Support from officers is needed for all the Council's functions and the roles of the full Council, policy committee and individual Members representing their communities.
- 4.3 Day to day managerial and operational decisions should remain the responsibility of the Chief Executive and other officers.

5. RELATIONSHIP BETWEEN MAYOR AND OFFICERS

- 5.1 Officers will ensure that the Mayor is provided with all necessary secretarial and other support and that the dignity of the office of Mayor is respected at all times.

6. RELATIONSHIP BETWEEN LEADER AND OFFICERS

- 6.1 It is of fundamental importance to the effective running of the Council that there is a good working relationship between the Leader of the Council and Officers, in particular the Chief Executive. The Leader and the Chief Executive between them have the prime responsibility for providing leadership not just to the Council but to the wider community.
- 6.2 The Chief Executive will keep the Leader and Shadow Leader regularly informed on matters affecting the Council and will arrange for the necessary support to be provided to the Leader and Shadow Leader to enable him or her to fulfil the role.
- 6.3 In the absence of the Leader or Shadow Leader the Chief Executive will provide the necessary information and support to the Deputy Leader or Shadow Deputy Leader or to any other member nominated by the Leader or Shadow Leader.

7. RELATIONSHIPS BETWEEN CHAIRMEN AND MEMBERS OF POLICY COMMITTEES AND OFFICERS

- 7.1 It is clearly important that there should be a close working relationship between the Chairman of a committee and the relevant Director or Service Head. However such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups.
- 7.2 Whilst the Chairman may, if he or she so wishes, be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a duty to submit a report on a particular matter. Similarly, an Officer will always be fully responsible for the contents of any report submitted in his or her name. Any issues arising between a Chairman and an Officer in this area should be referred to the Chief Executive for resolution. Where individual members wish

to place an item on an agenda they should notify the Chairman and the Chief Executive.

- 7.3 Finally, it must be remembered that officers within a service are accountable to their Director and/or Service Head and that whilst Officers should always seek to assist a Chairman or any other Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director or Service Head.

8. OFFICER RELATIONSHIPS WITH PARTY GROUPS

- 8.1 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups; however, this should always be with the consent of the appropriate Director. Such consent will only be refused in exceptional circumstances and after discussions between the party Leader and the Chief Executive.
- 8.2 The support provided by officers can take many forms, ranging from a briefing meeting with a Chairman or Spokesperson prior to a committee meeting to a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups and also to independent members.
- 8.3 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed.
 - (b) Where Officers provide information and advice to a party group meeting in relation to a matter of council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee when the matter in question is considered.
- 8.4 Special care needs to be exercised whenever 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 Council's Code of 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 Members only meeting.

- 8.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay either directly or indirectly the content of any such discussion to another party group.
- 8.6 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive or in his absence, the Monitoring Officer who will discuss them with the relevant group leader.

9. MEMBERS IN THEIR WARD ROLES AND OFFICERS

- 9.1 Officers will provide support to Members in their role as ward councillors. However the only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.
- 9.2 Whenever a public meeting (with the exception of Committee meetings) is organised by the Council to consider a local issue, all the Members representing the ward or wards affected must, 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, the ward members should be notified at the outset of the exercise.

10. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 10.1 Members are free to approach any Council department to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Director or another Senior Officer of the department concerned.
- 10.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 10.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, committee or sub-committee meeting. This right applies irrespective of whether the member is a member of the committee or sub-committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not however apply to documents relating to certain items which may appear on the 'exempt' agenda for meetings. The items in question are those which contain exempt information.

- 10.4 The common law right of Members is much broader and is based on the principle that any member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the “need to know” principle.
- 10.5 The exercise of this common law right depends therefore upon the Member’s ability to demonstrate that he/she has the necessary “need to know”. In this respect a Member has no right to “a roving commission” to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. This question must initially be determined by the particular Director whose department holds the document in question (with advice from the Head of Legal and Democratic Services). In the event of dispute, the question falls to be determined by the relevant Committee i.e. the Committee in connection with whose functions the document is held.
- 10.6 In some circumstances (e.g. a Committee Member wishing to inspect documents relating to the functions of that Committee) a Member’s “need to know” will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms.
- 10.7 Whilst the term “Council document” is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a member of one party group will not have a “need to know” and therefore a right to inspect, a document which forms part of the internal workings of another party group.
- 10.8 Further and more detailed advice regarding Members’ rights to inspect Council documents may be obtained from the Head of Legal and Democratic Services.
- 10.9 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member’s duties as a Member of the Council.

11. MEDIA RELATIONS

- 11.1 Officers shall assist Members in explaining proposals and policies to journalists but not in promoting individual members or their political views. Exceptions are those described in the Code of Practice on Local Authority Publicity, principally when an individual Member is speaking for the Council as a whole or for a committee which they chair.

12. CORRESPONDENCE

- 12.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member.

12.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception rather than the norm. Letters which for example, create obligations or give instructions on behalf of the Council should never be sent out over the name of a Member.

13. REVIEW OF PROTOCOL

13.1 This protocol is intended to provide Members and Officers with guidelines to determine their roles and relations with each other.

13.2 It is intended to be a 'live' document and will be reviewed from time to time to reflect changing circumstances.

13.3 Members or Officers with queries about the Protocol should contact the Head of Legal and Democratic Services, who is the Council's Monitoring Officer.