

PART 5 (SECTION C)

PROTOCOL ON MEMBER AND OFFICER RELATIONS *(Approved by Council February 2008)*

1.0 INTRODUCTION

- 1.1 The purpose of this protocol is to guide Councillors and officers in their relationships with one another.
- 1.2 The primary role of Councillors and officers is to serve the public and they must work together to meet their respective responsibilities. Councillors are responsible to the electorate and, through the system of decision-making and review bodies, take and scrutinise decisions on their behalf. Officers are employed by, and are responsible to, the elected Council as a whole and to their managers and the Chief Executive. Officers are expected to give advice to Members and to take their instructions through the decision making and review process set out in the Council's Constitution. They are also expected faithfully and conscientiously to implement the lawful decisions of Councillors and properly to take decisions delegated to them.
- 1.3 The Boston Member Code and the Employees' Code provide guidance on the standards and attitudes expected of Members and officers and this Council expects both to be followed. The main principles that underpin the codes are:-
- mutual respect and courtesy both between Members and between officers and Members;
 - an awareness of each other's responsibilities and duties;
 - equal treatment, regardless of personal, political opinions or any other factor;
 - an adherence to the law and the lawful instructions and advice of others;
 - an avoidance of close personal familiarity
- 1.4 The above principles are designed to foster the good working relationships between officers and Members that are essential to maintaining confidence in local democracy and delivering high quality services.

2.0 MUTUAL RESPECT AND COURTESY

- 2.1 Officers have a duty to all Councillors to give high quality professional advice, which must be politically impartial.
- 2.2 For the effective conduct of Council business there should be mutual respect and courtesy in all meetings and contacts, both formal and informal, between Councillors and officers.

- 2.3 Officers and Councillors should, particularly in the public forum, be mutually supportive in order to minimise any potential embarrassment to the Council. Criticism of officers should, wherever possible, be handled beyond the glare of public scrutiny – particularly the Press which in extreme cases may lay the person open to challenge in the courts or by the Standards Board for England. By the same token, officers should never publicly criticise decisions taken by the Council or any of its committees.
- 2.4 National custom and practice has traditionally recognised that whilst there should be mutual respect between Councillors and officers the development of close personal relationships is incompatible with their different roles. It is undesirable that such relationships should 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 Councillors and other parties.

3.0 COMMITTEE PROCEDURES, REPORTS AND ADVICE

- 3.1. The Executive (Cabinet) is responsible for managing the majority of the authority's services (the principle exceptions being development control decisions, licensing and regulatory functions and elections) and for recommending to the Council the draft Council budget and draft plans, policies and strategies. In practice, this means that they will need to work closely with individual officers, especially those within the services for which the Cabinet Member is most directly responsible. Similarly Chairmen/Vice-Chairmen of the Scrutiny and Regulatory Committees have additional responsibilities where significant officer support will be needed. Because of those responsibilities, their relationships with staff may be different from, and be more complex than those of Councillors without those responsibilities, and this is recognised in the expectations they are entitled to have. However, such Councillors must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything which would put them in difficulty in the event of a change in the political makeup of the Council.
- 3.2 When taking a decision Councillors should ensure that all relevant advice and information from officers is sought and due regard taken before the decision is made. That information may include financial, legal and policy implications. Officers should fully explore and fairly set out the pros and cons of all relevant considerations and present them in a clear and unbiased way in both written and oral presentations.
- 3.3 The Corporate Director, or another officer authorised by him or her, will prepare reports to Cabinet/Panel/Committee. An officer will always be fully responsible for the contents of any reports submitted in his or her name.
- 3.4 Councillors should respect officers' independence and, whilst challenging recommendations, should not ask them to change recommendations on any unreasonable or improper basis. It is likely that a sensitive report would be discussed beforehand with the Leader/Chairman at one of the regular briefings.
- 3.5 When preparing reports or giving advice officers must be aware of and adhere to their duties as laid down by law, the Boston Member Code, the employee code of conduct,

standing orders/financial regulations and, where appropriate, their professional body. Where any of these conflict with the wishes of a Cabinet Member or Chairman, the matter should be referred to the Chief Executive, who may raise it with the Leader and the Deputy Leader of the Council, if appropriate.

- 3.6 When presenting reports, officers should generally be asked to highlight the key points and particularly to draw attention to any risks or over-riding considerations.

4.0 CABINET AND COMMITTEE BRIEFINGS

- 4.1 The Chief Executive and all Corporate Directors are expected to consult appropriate Cabinet Members and Committee Chairmen and Vice-Chairmen before agendas are finalised and upon drafts of reports. As a general rule “greens” briefings will be arranged by the Democratic Services staff prior to the despatch of agendas.
- 4.2 In those cases where the Chairman or Vice-Chairman is unable to attend a Committee briefing the “Number 3” will be invited as a substitute.
- 4.3 Briefing meetings, where discussion of draft papers is involved, are not open to other Councillors or the public.
- 4.4 Officers, particularly Corporate Directors, should aim to keep the appropriate Cabinet Members or Committee Chairmen and Vice-Chairmen briefed on all matters of a sensitive nature in an effort to avoid them being “caught on the hop” by another Councillor, the press or the public.

5.0 MEDIA RELATIONS

5.1 Officers

- 5.1.1 Only Officers authorised by their Corporate Director or Head of Service to do so may talk to the press, or otherwise make public statements on behalf of their service area. Generally speaking, an employee contacted by the press should refer the matter to their Corporate Director or Head of Service who will deal with it as appropriate.
- 5.1.2 Officers authorised under paragraph 5.1 may comment on matters which are the subject of delegation, but will need to exercise judgement and integrity in making such comment. Representatives of the press must be requested to seek political comment from the Leader or Deputy Leader of the Council or the appropriate Cabinet Member or Chairman.
- 5.1.3 When preparing draft press releases the appropriate Cabinet Member and/or Ward Members (where appropriate) will normally be approached for comments.
- 5.1.4 Information published on the Council’s behalf must comply with the statutory code of practice, i.e. be objective, balanced and non-party political.

5.2 Members

5.2.1 Our current adopted Communication Policies (2006/9) provides as follows:-

The Leader of the Council is the lead spokesperson for those communications activities identified as corporate communications areas. As the principle spokesperson for the Borough, the Leader may also choose to take a lead in the media on major corporate announcements even when they are usually matters for Cabinet Members to comment on, for example on a large scale leisure investment announcement.

Cabinet Members are the lead spokespeople for service related media activity. As such they will be the quoted spokesperson for issues within their remit.

Where it is inappropriate for legal, or other reasons, for an elected Member to act as spokesperson it may be necessary for the Chief Executive, or another officer to act as the spokesperson.

5.2.2 When dealing with the press not in their capacity as a nominated spokesperson for the Council, Members will endeavour to ensure the press are both aware and give clear pointed acknowledgment of the fact that they are acting in their own capacity and not as a spokesperson for the Council.

5.3 From six weeks prior to full elections, no Council publicity will be produced with names and names of individual Members of the Council other than the Mayor in his or her official capacity, throughout the period until the publication of the election results.

6.0 ENQUIRIES AND ACCESS TO SERVICE AREAS AND PROPERTY

6.1 Wherever possible Councillors should use the enquiry/request for service form to avoid the need to have to contact officers directly on routine requests for services. The responsible officer (usually the Head of Service) will be required to “follow up” each case by notifying Councillors of the action taken within 10 working days.

6.2 As a general rule, a Councillor’s first port of call for advice on routine matters should be the relevant Head of Service or Line Manager. Only in those cases where the Councillor is dissatisfied with the response should the relevant Corporate Director be approached. Under normal circumstances Councillors should refrain from approaching junior members of staff to seek advice, information or to ask for work to be carried out.

6.3 In the interests of operational efficiency, Councillors should refrain from visiting departments (excluding Members’ Support) or Council facilities without appointments, and wandering about offices. Councillors should make every effort to pre-arrange appointments with officers, especially Corporate Directors. Appointments may be made via the Civic & Member Services Officer (Telephone 314511)

6.4 Unless authorised by the appropriate committee, a Councillor shall not claim to exercise any right of the Borough Council to inspect or enter any property (whether

Council or private) or gain access to Council information systems etc. For the avoidance of doubt, this provision does not preclude Councillors from undertaking site inspections, familiarisation visits or tours of Council or private facilities where appropriate arrangements have been made in advance with the relevant Corporate Director or Head of Service.

7.0 POLITICAL NEUTRALITY AND OFFICERS

- 7.1 As individual Councillors, all Councillors have the same rights and obligations in their relationship with officers and should be treated equally. This principle is especially important in the context of overview and scrutiny.
- 7.2 However, where a political group or combination of political groups have majority control of the Council, senior officers have a responsibility to assist the political administration of the Council in implementing their policies. Where this occurs it is recognised that the relationship between officers, particularly those at a senior level of the authority, and the administration will differ from that with opposition groups.
- 7.3 Upon a change in political administration, officers will serve the incoming administration in the same way as the outgoing, and will continue to respect any continuing political confidentiality except in so far as it adversely impacts on the operation of the Council.
- 7.4 Officers, whether or not politically restricted, must not allow their personal or political opinions to interfere with their work. This requirement for impartiality is all the more important in respect of an officer who exercises regulatory functions in respect of the authority itself and is called upon to adjudicate between the Council and the Cabinet.

8.0 OFFICER ADVICE TO POLITICAL 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. Party groups may properly call upon senior officers to support and contribute to such deliberations, other than those relating to development control decisions.
- 8.2 The support provided by such officers can take many forms, ranging from briefings prior to meetings or discussions with a group on a particular topic. Whilst in practice such officer support is likely to be in most demand from whichever party group, or combination of groups, (if any) is for the time being in control of the Council, such support is available to all party groups.
- 8.3 Where this type of arrangement occurs the following principles should be clearly understood by all those participating:-
- Officer support extends only to the provision of information and advice on Council business not party group business. It therefore follows that officers should not be present at any part of a group meeting that discusses party political business.

- Party group meetings are not empowered 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 they are not interpreted or acted upon as such.
- Similarly, where officers provide information and advice in the context of a party group meeting, this cannot act as a substitute for providing all necessary information and advice to the relevant Council decision making body when the matter in question is considered.
- Since non-members of the Council are not bound by the Boston Member Code they should be discouraged from attending party group meetings as officers may not be able to provide the same level of information and advice as they would to a Councillors only meeting
- The confidentiality of party group meetings should be respected.

8.4 Under normal circumstances only Corporate Directors or Heads of Service will attend party group meetings.

8.5 Where officers have particular difficulties involving advice to party groups these should be raised with the Chief Executive.

9.0 UNDUE PRESSURE

9.1 In their dealings with officers (especially junior staff) Councillors need to be aware that it is easy for officers to be overawed and feel at a disadvantage. Such feelings can be intensified where Councillors hold official and/or political office.

9.2 A Councillor should not apply undue pressure on an officer to do anything that he/she is not empowered to do or to carry out work outside normal duties or normal hours or aid the Councillor to do something which the Councillor is not authorised to do. Special care needs to be taken in connection with the use of Council property and services.

9.3 Similarly, an officer must neither seek to use undue influence on an individual Councillor to make a decision in their favour nor raise personal matters to do with their job nor make claims or allegations about other staff. Boston Borough Council has formal procedures in place for resolving such issues, for example harassment, whistle-blowing, grievance and discipline etc. As an exception to these provisions an employee may raise issues (other than those relating to an employee's employment with the Council) relating to Council business where the Councillor is the local ward Councillor of the employee concerned.

9.4 Certain officers, for example the Head of Paid Service, Chief Finance Officer (Section 151 Officer) and Monitoring Officer, have responsibilities in law over and above their obligations to the authority and to individual Councillors. Councillors must respect these obligations, must not obstruct officers in the discharge of these responsibilities, and must not victimise officers for discharging these responsibilities.

10.0 SUPPORT SERVICES TO MEMBERS

- 10.1 Secretarial and clerical support is provided to enable elected Councillors to carry out their official duties and roles as Councillors effectively. These services can be accessed via the Civic & Member Services Officer who also provides a research facility and co-ordinates attendance at training courses, seminars, external meetings etc as required.
- 10.2 Some limited support will also be provided for ward surgeries including the design and production of posters and notices. Accommodation costs associated with the provision of ward surgeries will be reimbursed to a maximum of £50 per Councillor in any one financial year upon production of appropriate receipts.
- 10.3 IT support and training will be provided for those Councillors who wish to go 'on-line'. Councillors are expected to comply with the specific guidance on computer security and data protection issued by the Council's IT Section.
- 10.4 Council resources can only be used for legitimate Council business and not for private purposes or party political activities. Computers are issued to Councillors for use in association with Council business only, except where the Councillor has made the appropriate payment to the Council for personal use of web-browsing and e-mail facilities.

All use of computers is subject to the Council's Codes of Practice which cover unacceptable use and security issues.

11.0 COUNCILLORS' RIGHTS TO INFORMATION

- 11.1 Members may receive such information as is necessary for them to carry out their role as Councillors.
- 11.2 All Members are entitled by law to inspect any public Council document, whether it is a report or a background paper, which contains material relating to any business to be conducted at any meeting of the council or its bodies. This right does not automatically extend to exempt or confidential items or papers.
- 11.3 Under common law, Members have a right to inspect Council documents if it is necessary to enable them to perform their duties as Councillors.
- 11.4 If a Member can demonstrate a "need to know" to the satisfaction of the Head of Service holding the information they may inspect a document. This right is in addition to the statutory access provision referred to in paragraph 11.2 above. The Head of Service may seek the advice of the Monitoring Officer in this respect. Any dispute should be referred to the Chief Executive. Where a Member is seeking information on a matter which is not directly relevant to their service on a particular body, but which they feel is necessary for them to perform their duty as a Councillor, the details of the

information requested and the reasons for seeking it should be put in writing to the relevant Head of Service.

- 11.5 Any information provided to a Councillor may only be used for the proper performance of their duties and should not be used for their own or others' personal advantage.
- 11.6 The Code of Member Conduct sets out provisions relating to the way Members must handle information they receive as Councillors. Failure to follow these rules could result in a complaint being upheld by the Standards Board for England.

12.0 WARD COUNCILLORS

- 12.1 Members representing an area where a meeting is being organised on behalf of the Council in respect of a local issue should be made aware of it and are entitled to attend. As a matter of courtesy, they should also be given details of any consultation on a local matter.

13.0 REPRESENTATION ON EXTERNAL ORGANISATIONS

- 13.1 The Borough Council has a wide range of contacts within the community through appointments to external organisations, both locally and regionally. These are a resource to be employed in the Council's best interests.
- 13.2 Appointments are made by either full Council or the Cabinet. These are usually made on an annual basis, unless the constitution of the organisation concerned states otherwise.
- 13.3 All appointments are subject to the requirement that the Member concerned must resign from the membership of an external organisation immediately upon ceasing to be a Member of this Council, where he/she has been appointed to that organisation as one of the Council's representatives, unless the Council agrees to their continuing.
- 13.4 Councillors should familiarise themselves with the Boston Member Code, particularly the requirement to comply with the Council's Code when acting for that body, except and insofar as it conflicted with any lawful obligations to which that body may be subject, and the need to declare an interest when an item involving that body is considered by the Council, Cabinet, Standing Committees and Working Groups.

14.0 COUNCIL TAX ARREARS

- 14.1 A Councillor who has not paid an amount due in respect of Council Tax for at least two months after it has become payable, may not vote on matters concerning the level of Council Tax or the administration of Council Tax. If present at a meeting, he/she must disclose the fact that the provision applies to him/her. He/she may, however, speak. Non-compliance is a criminal offence.

14.2 In order to avoid potential embarrassment, and intervention by officers, Councillors are asked to ensure they pay their Council Tax promptly.

15.0 VIP VISITS, PUBLIC MEETINGS AND CONSULTATIONS

15.1 Where the Council is notified of royal or other VIP visits, Group Leaders and appropriate local Member(s) will be informed.

15.2 Whenever the Council organises a public meeting to consider any issue, Group Leaders and appropriate Member(s) will be informed.

15.3 Similarly when the Council organises a public consultation exercise on any issues, Group Leaders and appropriate local Member(s) will be informed.

16.0 CORRESPONDENCE

16.1 Correspondence between an individual Member and an officer should not normally be copied by the officer to any other Members. If, in exceptional circumstances, it is necessary to do so, this must be made clear to the original Member before the correspondence is forwarded to anyone else.

16.2 Official letters sent out on behalf of the Council will normally bear the name of the Council officer concerned, not of a Member. In exceptional circumstances, the Chief Executive may approve the sending of a letter on Council headed paper in the name of a Member. Letters, which, for example, create obligations or give instructions on behalf of the Council, should never be in the name of a Member.

17.0 BREACHES OF THE PROTOCOL AND UNRESOLVED ISSUES

17.1 Subject to paragraph 17.2 below, any breaches of this protocol or any issues remaining unresolved after the application of the protocol or any issues arising in respect of its interpretation shall be referred to the Chairman of the Standards Committee and Chief Executive for resolution, who, if they consider further action is required, shall refer the matter to the Council's Standards Committee for determination.

17.2 Any breach of this Protocol, which is also a breach of the Boston Member Code, will be handled in accordance with the provisions of the Boston Member Code.