

PROTOCOL FOR MEMBER AND OFFICER RELATIONS

Protocol for Member and Officer Relations

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Protocol for Member and Officer Relations

1 Introduction

- 1.1 The Local Government Act 2000 introduced a new ethical framework for local government with the establishment of the Standards Board and the introduction of a new statutory code of conduct for employees and requirement for local authorities to adopt a Members' code of conduct and appoint a Standards Committee.
- 1.2 The Members' code of conduct addresses in general terms the aspects of a Member's conduct in carrying out the whole range of official duties and has direct relevance to the relations between Members and officers.
- 1.3 The Authority seeks an excellent working relationship between Members and officers as the best means of ensuring clear and consistent strategy and proper representation by outside interests in the work of the Authority. Such good working relationships require this protocol as a framework.
- 1.4 The protocol guides Members and officers of the Authority in their relations with one another. To a large extent, the protocol is no more than a written statement of current practice and convention. In some respects however, it seeks to promote greater clarity and certainty.
- 1.5 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. Accordingly it will be kept under review and amended as necessary. The protocol addresses the issues that most commonly arise. It is hoped however that the approach that it adopts to these issues will serve as a guide to dealing with other issues.
- 1.6 The protocol also seeks to reflect the principles underlying the respective Codes of Conduct that apply to Members and officers. The shared objective of these Codes is to enhance and maintain the integrity of the Authority in the eyes of the people it serves.
- 1.7 Both Members and officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Members represent the wider public and serve only so long as their term of office lasts. Officers are responsible to the Authority. Their job is to give advice to Members and the Authority and to carry out the Authority's work under the direction and control of the Authority its Committees and Sub-Committees.
- 1.8 Members should respect the role of the Authority's officers and treat them in a way that engenders mutual respect at all times which is essential to good local government.
- 1.9 Officers should respect the role of the Authority's Members and treat them in a way that engenders mutual respect at all times which is essential to good local government.

2. Expectations

2.1 Members can expect from officers:

- a commitment to the Authority as a whole and not only to any part of it
- respect and courtesy
- the highest standards of integrity
- a working partnership
- an understanding of and support for respective roles, workloads and pressures
- timely responses to enquiries and complaints
- professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers

- regular up to date information that can be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions they hold
 - awareness of and sensitivity to the political environment
 - training and development in order to carry out their role effectively
 - appropriate confidentiality
 - that they will not use their relationship with Members to seek to advance their personal interests or to influence decisions improperly
- support for the role of Members within the arrangements made by Authority compliance with the Employee Code of Conduct and protocols at all times.

2.2 Officers can expect from Members:

- respect and courtesy
- the highest standards of integrity
- a working partnership
- an understanding of and support for respective roles, workloads and pressures
- leadership
- not to be subject to bullying or to be put under undue pressure
- that Members will not use their position or relationship with officers to seek to advance their personal interests or those of others or to influence decisions improperly
- compliance with the Members' Code of Conduct and protocols at all times

3. **Working Relationships**

3.1 Both Members and officers should take care not to give the impression that their distinct roles have become blurred in some way. Maintaining confidence in the separation of these roles necessarily imposes limitations on behaviour. Members and officers should exercise caution in forming close personal friendships between each other. This can confuse their separate roles and affect the proper discharge of the Authority's functions. The perception could be in others that a particular Member or officer may be able to secure advantageous treatment as a result of such a friendship. Where a relative or close personal friend of an employee becomes a Member of the Authority the employee should make the circumstances known to the Chief Executive (National Park Officer).

3.2 Any act against an individual officer may be regarded as a form of bullying, intimidation or harassment if it is intended to influence unfairly that person's actions, thoughts or deeds. Whilst no policy statement can give guidance on every instance where such behaviour may occur the Authority is committed to promoting standards of behaviour which reflect the proper, professional, working relationship which should exist between Members and officers at all times and to ensure normal standards of courtesy and behaviour between individuals.

3.3 All dealings between Members and officers should, therefore, observe reasonable standards of courtesy and neither party should seek to take advantage of their position. On occasions, Members may have reason to complain about the conduct or performance of an officer. All such complaints should be made personally to the Chief Executive or in his/her absence a Director, or the Monitoring Officer. It is particularly important that such complaints are made in this way and are not ventilated in public such as at a meeting of the Authority, or its Committees, Sub-Committees or other external bodies.

3.4 The corollary to the Members concern about an officer's performance is a concern by an officer in relation to a Member's conduct. All such concerns should be brought personally to the attention of the Chief Executive or in his/her absence a Director and the Monitoring Officer. They will if necessary discuss the matter with the Chair of the Authority and, where appropriate, with the Chair of the Committee or Sub-Committee affected. In the absence of the Chair, the Deputy Chair should be approached.

4 **Roles of Members**

4.1 'The role of the Member is to foster and promote the core purposes of the National Park (as set out in the Environment Act 1995) and, in so doing:

- to provide strategic leadership and direction in partnership with the Executive
- to have regard to and contribute to the development of national and regional policies
- to monitor, review scrutinise and debate strategies, policies plans and performance
- to participate in community engagement with all stakeholders
- to represent the Authority to the public and stakeholders at all levels
- to represent national and local interests on the Authority'

4.2 The role of a Committee Chair is only legally recognised for procedural purposes such as chairing meetings and exercising a casting vote. In practice Chairs are recognised as the "lead members" on the areas and issues within the terms of reference of the Committee concerned. This involves working closely with officers and acting as the Authority's external representative and "spokesperson" on those issues.

4.3 Member Representatives are appointed on an annual basis. The themes are linked to the National Park Management Outcomes. It is not appropriate to be totally prescriptive about what a Member Representative might do as it will depend to a great extent on the nature of the work programme for the forthcoming year and the skills and experience of the member appointed. However a generic description of the role is set out in Appendix 1. Member Representatives need to ensure that in exercising their role that this does not conflict or become confused with the role of the relevant Committee Chair.

5 **Responsibilities and Rights of Members**

5.1 All Members appointed to the Authority have equal status, equal opportunity to hold office and are equally responsible. Members are expected to be equally committed to fulfilling the purposes for which National Parks exist and accept their appointment to the Authority with that commitment in mind.

5.2 Members of a National Park Authority, in their individual capacity, have no executive powers and can exercise no lawful authority to make decisions.

5.3 Members should be able to leave the day-to-day implementation of policies, including management to officers. Members have a right to ensure that their decisions for which they are statutorily responsible and accountable are implemented by officers. Officers should demonstrate that they are sensitive to Members' aspirations underlying those policies.

6 **Rights and Duties of Individual Members**

6.1 There are other clear rights for individual Members, principally:

- rights of access to Committee papers
- rights to attend meetings
- rights to see the accounts and make copies, and before the annual audit to inspect specific books, contracts, bills etc
- rights to receive allowances in respect of carrying out "approved duties"

- 6.2 There are also duties on individual Members, principally:
- to abide by the Authority's Members' Code of Conduct and protocols
 - to register their financial and other interests and keep the information up to date
 - to disclose personal and prejudicial interests in any matter before meetings of the Authority, its Committees and Sub-Committees and other meetings
 - to register the receipt of any gifts and hospitality.
 - to attend meetings of the Authority, its Committees, Sub-Committees, other events and any outside bodies that they have been appointed to.
 - to attend and participate in opportunities for training and development

7 Inspection of Documents

- 7.1 The Authority wishes to conduct its affairs in an open and transparent way and to give Members maximum access to information and documents to enable them to discharge their role as Members of the Authority. Requests for information can range from general information about some aspect of the Authority's work to specific requests for information on behalf of a member of the public.
- 7.2 The legal rights of members to inspect Authority documents are covered partly by statute (the Local Government Acts) and partly by the common law. The Rules of Procedure as set out in the Authority's Standing Orders are attached as Appendix 2.

8. Confidentiality of Committee Reports

- 8.1 All Chief Officers have a duty to satisfy themselves that Committee reports to which they are signatories are only classified as 'exempt information' or "confidential information" when the statutory criteria for confidentiality are met as set out in the Local Government Act 1972. The Director of Corporate Resources as Monitoring Officer has an overriding responsibility to determine this compliance.
- 8.2 Once a report has been issued with Part B of the agenda for a meeting a Member must respect the confidentiality of the report and not disclose its contents to a third party. However this restriction does not apply if the Committee decides at the meeting that the report should be discussed in the presence of the press and public.
- 8.3 It does not however follow that all the contents of the report must be regarded as confidential. It may only be certain items of information or terms of negotiations that justify the inclusion of that report in Part B. Other aspects may be within the public domain or otherwise outside the definition of 'exempt'. A Member may accordingly refer to these aspects in discussions with third parties but must exercise proper care and judgement not to reveal those elements of the paper which are protected but it will also be prudent for that Member to consult with the Monitoring Officer or Deputy Monitoring Officer before doing so.

9 Roles and Responsibilities of Officers

- 9.1 A mutual and working understanding of the roles and responsibilities of officers is essential to the Authority developing and applying a clear and consistent approach to the role and responsibilities of Members.
- 9.2 Officers, through reports, formal and informal advice, play an essential role in the formation and carrying out of the Authority's decisions and policies. The tradition in Local Government is that officers will loyally and consistently carry out the decisions of the Authority. If officers consider, as a matter of professional judgement, that a proposed course of action is imprudent they will advise Members accordingly. However, if despite that advice the Authority proceeds with its course of action, officers will implement the decision made unless it contravenes their professional ethics or statutory codes of practice to such an extent as to place their continued professional practice at risk. In these circumstances an officer must take advice from the Monitoring Officer.

- 9.3 The prime responsibility of officers in the matter of all challengeable decisions is in advising Members before such decisions are reached. In such cases, the advice should include clear legal and financial advice, on relevant and irrelevant factors and on how to approach decision-making. The fact that such advice has been given and considered will be material in any court proceedings that will be concerned to see that the Authority has properly applied its mind to the relevant issues.
- 9.4 An officer is under a duty not to implement a decision or take any action that is contrary to statute law and is manifestly unlawful. An officer will also not implement a decision where the Monitoring Officer or Chief Finance Officer has issued a statutory report that has not yet been considered by the Authority or has not yet been complied with.

10 **Roles of Specific Officers**

10.1 There are three officers that have specific roles defined by statute that Members should note:

- A. **Head of Paid Service** – is under a duty, 'where he/she considers it appropriate' to report to the Authority and Members on:
- the manner in which the discharge by the Authority of its different functions is co-ordinated;
 - the number and grades of staff required by the Authority for the discharge of its functions;
 - the organisation of the Authority's staff; and
 - the appointment and proper management of the Authority's staff.
- B. **Section 151 Chief Finance Officer** – the Treasurer of Derbyshire County Council is appointed as the Authority's Chief Finance Officer in accordance with Section 151 of the Local Government Act 1972, to be responsible for the proper administration of the Authority's financial affairs. He/she is under a duty to report, to both Members of the Authority and to the District Auditor, any decision involving unlawful, or potentially unlawful, expenditure by the Authority; any unlawful course of action likely to cause a loss or deficiency on the part of the Authority; or an unlawful entry of an item of account.
- C. **Monitoring Officer** – has a duty to put a formal report to the Authority where it appears that the Authority, its Committees or officers are involved in any proposal, decision or omission which is likely to be illegal or give rise to maladministration or injustice. It is also implicit in legislation, and indicated elsewhere in guidance, that the Monitoring Officer may give informal advice, including to individual Members, and that they may also seek guidance on legal or propriety matters. The Monitoring Officer also has specific legal duties and powers in respect of the Members' Code of Conduct and the Standards Committee. The Monitoring Officer's duties may be performed by a nominated Deputy.

11 **Delegation of Functions to the Chief Executive and other officers**

11.1 The Authority's Standing Orders set out the various powers delegated to the Chief Executive and other officers. In exercising these delegated powers the officers are obliged to act in accordance with:

- the overall policies approved by the Authority or any of its Committees or Sub-Committees;
- standing orders including those relating to contracts; and
- financial regulations.

11.2 In all cases it is open to the Chief Executive or other officer with delegated powers to refer a matter to the Authority, a Committee or Sub-Committee for decision if in his/her opinion the matter is of such a nature that it should more properly be referred to Members.

11.3 Officers are responsible to their appropriate Chief Officer and whilst officers should always seek to assist Members, they must not, in doing so, go beyond the bounds of whatever authority that has been delegated to them by their Chief Officer.

12 **Relationships with the Authority Chair, Deputy Chair and Committee Chairs and Vice Chairs**

12.1 The Chief Executive and Directors should foster close working relationships with the Authority Chair and Deputy Chair and the Chairs and Vice Chairs of Committees. These relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Chief Executive's or Director's ability to deal properly with other Members and to discharge their duty to serve the Authority as a whole. In some circumstances it may be necessary for the Chief Executive or a Director to bring forward reports on a particular matter in furtherance of this general duty.

12.2 The law only allows for decisions relating to the discharge of any of the Authority's functions to be taken under delegated authority by a Committee, Sub-Committee or an officer. Individual Members including Chairs are not allowed to act (save in the case of a Chair who under local government law may decide that an item of business for a Committee is 'urgent'). Where it is expected that action is likely to be required between meetings the usual method of authorising it is to delegate action to the Chief Executive or a relevant Director. If it is felt appropriate the officers will inform the relevant Chair and Vice-Chair. However the officers must reach a decision to act on a delegated matter independently.

13 **Preparation of Agendas for Meetings**

13.1 The Chief Executive and Directors will advise the Chair and Deputy Chair for Authority meetings and the relevant Committee Chair and Vice-Chair for Committees or Sub-Committees on likely items of business for forthcoming meetings. A Member may ask the Chief Executive or relevant Director to include an item of business on the agenda and to write a report on the matter. Members should consult with the appropriate Chair before making such a request.

14 **Urgent Business**

14.1 All agendas for meetings of the Authority, Committees and Sub-Committees shall include a provision for "Urgent Business". As a working rule, an item of business will normally only be urgent if it has arisen since the publication of the agenda.

14.2 Members or officers wishing to raise an item of urgent business at a meeting should contact the Chief Executive or the relevant Director before the meeting who will then discuss the request with the relevant Chair. The decision as to whether an item of business is urgent is one for the Chair of the meeting to make under powers granted by the Local Government Act 1972. The Chair's decision is final and is not open to discussion or debate.

15 **Relations with the Press and Media**

15.1 Relations with the press and media need to be handled with care to ensure the Authority's position on any issue is represented properly. The Chief Executive or the Head of Communications will normally handle day-to-day contact with the press and media. Where necessary they will consult with the Authority Chair and/or other Members. Where a media interview is needed on major, or Member, issues, the Chief Executive and the Chair will discuss who is to be the appropriate spokesperson. On occasions other Members may assume this role and similarly the Chief Executive may nominate one of his/her staff to speak on his/her behalf.

15.2 On occasions Members may be approached directly by the press and media and asked to make a comment or to appear for interview. In these circumstances Members are asked to discuss this first with the Head of Communications. If considered necessary by the Head of Communications the Chief Executive and/or the Chair as appropriate will be made aware of the approach.

15.3 When Members have been authorised to speak on behalf of the Authority any contacts should be notified to the Chief Executive as soon as possible. In all cases Members are asked to uphold the good name and integrity of the Authority.

16 **Support Services to Members**

16.1 The only basis on which the Authority 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 Authority. Such support services must therefore only be used for Authority business and never in connection with party political or campaigning activity or for private purposes.

17 **Attendance by Members at Meetings Arranged by Officers**

17.1 Within the Authority, Members are free at any time to meet officers to discuss aspects of the Authority's business.

17.2 Officers will arrange many meetings with colleagues or third parties to discharge the routine business of the Authority or to action its decisions. The convention is that Members will not be present at these meetings but will be advised either informally or through reports to Committees, of any relevant discussions and/or outcomes. There may be occasions where a Member may be invited to attend a meeting by the appropriate officer or by a resolution of a Committee.

18 **Breaches of the Protocol**

18.1 Specific breaches of this protocol may ultimately be subject of either grievance or disciplinary procedures or in the case of a Member by a complaint to the Standards Board. Potential problems may be resolved by early discussion between a Member and a Chief Officer or, if necessary, between the Chair of the Authority and the Chief Executive. More general concerns about relationships between Members and officers or perceived breaches of the principles embodied in this Protocol can be discussed with the Authority's Monitoring Officer.

19 **Training and briefing**

19.1 Training and briefings on the operation of the protocol for Members and officers will be arranged as required.

20 **Advice**

20.1 The Authority's Monitoring Officer and Deputy Monitoring Officer will give advice on the interpretation and operation of this Protocol.

21 **Review**

21.1 The operation of the protocol shall be monitored and reviewed every 12 months and any appropriate amendments made when necessary.

APPENDIX 1

MEMBER REPRESENTATIVE GENERIC ROLE

A Member Representative:

1. Is an external advocate for the NPMP outcome
2. Is aware of the relevant partnerships the Authority is involved in (and whether other members are representing the Authority on outside bodies)
3. Can be a media spokesperson when asked and briefed by the Authority
4. Is a critical friend and sounding board for staff in developing strategic work and discussing potentially contentious/high profile issues on an exception basis
5. Develops knowledge around the outcome and monitors performance progress
6. Has an awareness of the Authority's work relevant to the outcome and shares this externally and internally with other members
7. Influences others (including where possible NPA members with other external links) and in doing so endeavours to change attitudes, behaviour and actions to support NPMP outcomes
8. Brings information back into the organisation
9. Works alongside the Chair/Deputy Chair of the Authority and Chairs/Vice Chairs of Committees

A Member Representative will be supported by:

1. An annual pre business plan meeting to look ahead at key areas for focus and opportunities for involvement in the forthcoming year
2. An agreement on how the Member Representative and lead officer will communicate
3. The member personal development plan process which will help to identify any learning and development needs to fulfil the role and propose how to meet these

(Authority Meeting 17 December 2010 Minute 78/10)

APPENDIX 2

MEMBERS' RIGHTS TO INSPECT DOCUMENTS - RULES OF PROCEDURE

(1) Documents relating to Business at Meetings

(a) Any documents which are in the possession or under the control of the Authority and contain material relating to any business to be transacted at a meeting of the Authority or a Committee or Sub-Committee of the Authority shall, subject to (b) below, be open to inspection by any Member of the Authority.

(b) The right to inspect documents referred in (a) above does not permit a Member of the Authority to inspect a document which, in the opinion of the proper officer of the Authority, discloses exempt information of a description falling within any of paragraphs 1 to 6, 9, 11, 12 and 14 of Part 1 of Schedule 12A to the Local Government Act 1972.

(2) Other Documents

(a) An Authority Member wishing to inspect any document other than those covered by clause (1) above should make a written request to the appropriate Chief Officer and the Chair of the Committee concerned.

(b) If the Chief Officer is satisfied after consultation with the Chair that the request to inspect the document is reasonable, the document is to be produced for the Member's inspection.

(c) If the Member's request for inspection raises any legal issues, the Chair and the Chief Officer will consult the Director of Corporate Resources.

(d) If the matter is not resolved it is then to be referred to the appropriate Committee for decision.

(3) All Documents

(a) Where a document has been inspected by a Member, or a Chair and Chief Officer or a Committee are asked for a ruling on disclosure, the Chief Officer involved shall be given express indemnity by the Authority in respect of any claim in defamation which may be made against the Chief Officer if inspection of the document is permitted.

(b) In the case of any document containing personal information, any decision by a Chair and Chief Officer or a Committee to permit inspection shall be subject to the condition that before the document is produced for inspection the permission of the original author of the document shall be obtained.

(c) Members and officers are advised that where information of a possible defamatory nature is contained in a document inspection of which by a Member of the Authority is permitted, such inspection is allowed on the clear understanding that neither the document nor its contents should be passed on to any other party.

(d) Nothing in these rules shall prevent a Member of the Authority passing a document or the purport of a document produced in accordance with this order to a Local Government Commissioner, but responsibility for any action arising from such publication shall rest solely with that Member.

(e) Nothing in these rules shall be deemed to affect the right of any Member of the Authority to inspect any document where such right is provided by any other statute or regulation.