

# 5C. Protocol on Member/Officer Relations

## CONTENTS

1.	Introduction .....	5C - 3
2.	<b>Respect and Courtesy</b> .....	5C - 3
	Undue Pressure .....	5C - 4
	Familiarity .....	5C - 4
	Redress .....	5C - 5
3.	Provision of Information/Advice .....	5C - 5
4.	<b>Political Activity</b> .....	5C - 6
	Employee Advice to Party Groups .....	5C - 6
	Preparation of Agenda and Minutes .....	5C - 8
	Support Services to Members and Party Groups .....	5C - 8
	Correspondence .....	5C - 9
5.	Conclusion .....	5C - 9



# 1. Introduction

- 1.1 The purpose of this protocol is to guide Members and employees of the County Council in their relations with one another.
- 1.2 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of 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.
- 1.3 This protocol is to a large extent no more than a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.
- 1.4 This protocol also seeks to reflect the principles underlying the respective rules of conduct which apply to Members and employees. The purpose of the rules and this protocol is to enhance and maintain the integrity (real and perceived) of local government by demanding very high standards of personal conduct.
- 1.5 A relevant extract from the National Code of Local Government Conduct for Members is reproduced below:

"Both councillors and employees are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Employees are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, their Committees and Sub-Committees.

Mutual respect between Councillors and employees is essential to good local government. Close personal familiarity between individual Councillors and employees can damage this relationship and prove embarrassing to other Councillors and employees."

- 1.6 This relationship has to function without compromising the ultimate responsibilities of employees to the County Council as a whole, and with due regard to such technical, financial, professional and legal advice that employees can legitimately provide to members. The protocol seeks to assist the working relationships between Members and employees.

# 2. Respect and Courtesy

- 2.1 For the effective conduct of County Council business there must be mutual respect, trust and courtesy in all Meetings and contacts, both formal and informal, between Members and employees. This too plays a very important part in the County

Council's reputation and how it is seen in public. It is very important that both Members and employees remember their respective obligations to enhance the County Council's reputation and to do what they can to avoid criticism of other Members, or other employees, in public places.

### *Undue Pressure*

- 2.2 It is important that, in any dealings between Members and employees, neither should seek to take unfair advantage of their position.
- 2.3 In their dealings with both Corporate Directors and employees (especially junior employees), Members need to be aware that it is easy for employees to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold official and/or political office.
- 2.4 A Member should not apply undue pressure on an employee either to do anything that he or she is not empowered to do, or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of County Council property and services.
- 2.5 Similarly, an employee must neither seek to use undue influence on an individual Member to make a decision in his or her favour, nor raise personal matters to do with their job, nor make claims or allegations about other employees. The County Council has formal procedures for consultation, grievance, and discipline. The one exception to this rule is the right of staff to report possible wrongdoing under the Council's "Whistleblowing" procedure.
- 2.6 Reports to Committee should be written by the Corporate Director or another employee authorised by him or her. It is likely that a sensitive report would be discussed with senior Members at a briefing Meeting held with the Corporate Director, and Members may make suggestions to the Corporate Director as to the contents of the report. However, the report is the Corporate Director's, and any amendments can only be made by the Corporate Director.

### *Familiarity*

- 2.7 Close personal familiarity between individual Members and employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.
- 2.8 Such familiarity could also cause embarrassment to other Members and/or other employees and even give rise to suspicions of favouritism.
- 2.9 For the above reasons close personal familiarity must be avoided.

## *Redress*

- 2.10 If a Member considers that he or she has not been treated with proper respect or courtesy, he or she may raise it with the employee's line manager or Corporate Director without delay if it is not possible to resolve it through direct discussion. If the issue still remains unresolved appropriate disciplinary action may be taken against an employee by the Corporate Director in accordance with the County Council's normal procedures.
- 2.11 If an employee feels the same way about a Member, and a direct discussion is impractical or fails to resolve the matter, he or she should raise the matter with the line manager or Corporate Director without delay. In such circumstances, the Corporate Director will take such action as is appropriate either by approaching the individual Member and/or Party Group Leader. The Corporate Director will inform the Chief Executive if the Party Group Leader becomes involved, or in any other case where that is appropriate. Feedback should be given to the employee on the outcome.

## **3. Provision of Information/Advice**

- 3.1 Any Member is entitled to apply to the Chief Executive, or to any other Corporate Director, for information and/or advice required in connection with his/her work as a Councillor, and, provided that the information sought does not involve, particularly in the Social Services field, the divulging of exempt information as defined in Section 100F of the Local Government Act 1972, it is the duty of the Corporate Director approached to give that information and/or advice, within the limits of his/her Department's resources and to the best of his/her ability. Members for their part will seek to act reasonably in the number and content of the applications they make.
- 3.2 If any Member asks for specific information relating to the work of a particular Directorate, and it appears possible or likely that at a subsequent Meeting issues will be raised or questions asked on the basis of the information provided, then the appropriate Member of the Executive shall be advised of the information sought and given.
- 3.3 The Chair of any Committee (including a County Council Local Committee, a Sub-Committee, and the Council) is entitled, for his/her own purposes as a Chair, to apply privately to the Chief Executive and/or to the appropriate Corporate Director(s) for additional background information on, or for advice on possible alternative courses of action in respect of, any particular problem or policy of concern.
- 3.4 The Leader or Spokesperson of each minority Group, recognised as such by the Council, is entitled, for his/her own purposes as a Leader or Spokesperson, to apply to the Chief Executive and/or to the appropriate Corporate Director(s) for general background information on, or for further information in respect of, an item of business coming before the then next Meeting of a Committee or Sub-Committee of

the Council. The appropriate Chair or Council Spokesperson, as appropriate, shall be advised of any new/additional information which has been supplied by the Corporate Director.

- 3.5 Technical/procedural information may be supplied, in confidence, to any Group Leader, to enable a budget to be presented by that Group which is in a legally correct form.
- 3.6 Information requested by a Member to address a constituency issue may be supplied to that Member in confidence.
- 3.7 If a request is made for routine factual information regarding a service, then, in addition to being supplied to the Member concerned, it will normally be made available to all Members through the Members' Information Bulletin.
- 3.8 Any Member of the Council may apply privately to the Chief Executive and/or to the appropriate Corporate Director for advice, in confidence, on information supplied by that Member to the Officer.

## 4. **Political Activity**

- 4.1 Senior employees, except those politically exempted, cannot be Local Authority Councillors or Members of Parliament, nor can they "speak or publish written work for the public at large or to a section of the public with the apparent intention of affecting public support for a political party".
- 4.2 Employees are employed by the County Council as a whole. They serve the County Council through Committees and are responsible to the Chief Executive and their respective Corporate Directors, and not to individual Members of the Council whatever office they might hold.
- 4.3 It is obviously important, though, for there to be regular contact between the Chief Executive, Corporate Directors, senior employees, and the Leaders of Political Groups on matters affecting the County Council: and between Corporate Directors, other senior employees, and Committee Chairs on matters affecting their respective Committees.

### *Employee Advice to Party Groups*

- 4.4 It is common practice for the Cabinet and Party Groups to give preliminary consideration to matters of County Council business in advance of such matters being considered by the relevant Council decision making body.
- 4.5 It is possible that a Corporate Director or other senior employee may be asked to attend Cabinet or a Party Group Meeting whether of the Party Group for the time being in control of the County Council or of a minority Party Group.

- 4.6 The procedure to be followed for attendance at Political Groups is that any such request must be made to the Chief Executive. The request should state (a) the reason(s) why an employee is being invited to address the Group Meeting; (b) the name of the employee(s) concerned, if known; and (c) the topic(s) to be covered or on which information or a report is sought.
- 4.7 The Chief Executive, after consultation with the relevant Corporate Director and the individual employee(s) concerned, will decide whether permission can be given, in whole or in part, to the employee(s) concerned for them to attend the Meeting if they are willing to do so. This decision will be notified to the relevant Group Leader, together with the Leaders of the other Groups, and will indicate that similar arrangements will be made for them if they so wish.
- 4.8 Since legally employees (including the Chief Executive and other Corporate Directors) serve the whole County Council, and not individual Political Groups, their attendance at Political Group Meetings is voluntary.
- 4.9 It follows from everything that has been said that employees are entitled to have their political neutrality respected should they agree to attend the Group Meeting, and to be treated in a fair and proper way. Employees must not be placed in a position where they feel at a disadvantage or their political impartiality or integrity are put at risk. Normally employees should leave the Meeting having given information on the issue in question and before the Group decide what view to take on it as a Political Group.
- 4.10 To safeguard both employees and Members, employees must not be asked to provide information and advice other than in direct relation to matters of Council business. Employees should not be expected to be present at Meetings, or parts of Meetings, when matters of Party business are to be discussed. Employees must be reminded on each occasion that they should leave a Meeting if there is any suggestion that they are to be asked to comment on matters beyond the brief agreed in advance, or if they feel vulnerable or that their integrity was being put in question.
- 4.11 Any breach of these arrangements by either Members or employees will be viewed seriously, and appropriate action taken by Group Leaders or the Chief Executive respectively.
- 4.12 Special care needs to be exercised whenever Officers are involved in providing information and advice to a Party Group Meeting that includes persons who are not Members of the County Council. Such persons may be bound by the rules of the Group, but will not be bound by the National Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality). For this and other reasons employees may not be able to provide the same level of information and advice as they would to a "Members-only" Meeting.
- 4.13 Employees must respect the confidentiality of any Party Group discussions at which they are present, in the sense that they should not relay the content of any such discussion to another Party Group.

- 4.14 Any particular cases of difficulty or uncertainty in this area of employee advice to Party Groups should be raised with the Chief Executive who will discuss it with the relevant Group Leader(s).

### *Preparation of Agenda and Minutes*

- 4.15 Each Council and Standing Committee etc Agenda will be prepared by the Corporate Director – Resources.
- 4.16 Normally a pre-Agenda meeting will be held, and the Chair will be consulted at that stage.
- 4.17 The Chair will, in any event, be consulted once the draft agenda is in being.
- 4.18 If there is disagreement between the Chair and the Corporate Director – Resources as to the correctness of including a particular item on the agenda, and the officers consider that their duties require inclusion of the item, the Chief Executive shall decide if the item will appear on the agenda.
- 4.19 Minutes of Committees, Sub-Committees, and of the Council will continue to be prepared by the Corporate Director - Resources, following upon any requisite consultation with appropriate Chief Officers.
- 4.20 Once draft minutes are in being, the Corporate Director – Resources will consult the relevant Chair (Vice-Chair in his/her absence) for comment.
- 4.21 If, in the exceptional event of a disagreement arising between the Chair and the Corporate Director – Resources as to the accuracy and/or content of a particular Minute, the Corporate Director – Resources having applied his/her sense, experience, and skill to the production of an accurate record, is satisfied that his/her version is correct, and that his/her first duty requires him/her to include that version, then that version will appear in the Minutes. Subsequently, at the next Meeting of the Committee, Sub-Committee, or the Council, as the case may be, it would be for Members to adopt or amend that Minute as they may decide.

### *Support Services to Members and Party Groups*

- 4.22 The only basis on which the County Council can lawfully provide support services (eg stationery, typing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the County Council. Such support services must therefore only be used on County Council business. They should never be used in connection with Party political or campaigning activity or for private purposes.

## *Correspondence*

- 4.23 Official letters on behalf of the County Council should be sent out over the name of the appropriate employee, rather than over the name of a Member. It may be appropriate in certain circumstances for a letter to appear over the name of a Member, for example in response to a letter of complaint sent direct to that Member. But this should be the exception rather than the norm and should only be done following consultation with the Chief Executive or appropriate Corporate Director. Letters which, for example, create obligations or give instructions on behalf of the County Council should never be sent out over the name of a Member.

## **5. Conclusion**

It is hoped that, by following good practice and securing sensible and practical working relationships between Members and employees, we can provide one of the cornerstones of a successful Local Authority and thereby enhance the delivery of high value quality services to the people of Cumbria.

