

Protocol for Member/ Employee relations

Human Resources
August 2018

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Version Control

Printed documents are uncontrolled. This document is only valid on the day it was printed.

Version	Description of Version	Effective Date
1.0	Protocol for Member/Employee Relations	15 th November 2010
1.1	Protocol for Member/Employee Relations	21 st January 2016
2.0	General update	20 th August 2018

Approvals

Approved by	Date
Joint Negotiating Group	15 th November 2010
Full Council	21 st January 2016

Associated documentation

Description of Documentation	
Employee Code of Conduct	Member Code of Conduct

1 Underlying Principles

- 1.1 The principles underlying this Protocol are as follows:
- 1.2 There shall be mutual courtesy and respect between Members and Employees with regard to their respective roles set out below.
- 1.3 Members and Employees shall each carry out their respective duties in the best interests of the Council.
- 1.4 This Protocol applies to all dealings between Members and Employees and not just in formal meetings.

2 The Role of Members

- 2.1 These include the following:-
 - 2.1.1 Develop and set policies that will then be implemented by the Employees.
 - 2.1.2 Monitor how those policies are being implemented.
 - 2.1.3 Provide guidance to the Employees on how those policies are to be implemented either if Members wish to do so or if Employees ask for guidance.
 - 2.1.4 Represent the views of their communities and ward constituents, and deal with individual casework.
 - 2.1.5 Understand the statutory roles of the Chief Executive as Head of Paid Service, the Strategic Director (Corporate Resources) as Section 151 Officer, the Legal and Democratic Services Manager as the Monitoring Officer, and the significance attached to their advice.
 - 2.1.6 Consult with the communities they represent on the development of policy, national and other local initiatives.
 - 2.1.7 Consult with the Monitoring Officer and the Strategic Director (Corporate Resources) about vires, maladministration, financial impropriety and probity. Also where they have any doubt as to whether the particular decisions were, or are likely to be, contrary to the policy framework, or contrary to, or not wholly in accordance with the budget.
 - 2.1.8 Respect Employees' political impartiality.
 - 2.1.9 Promote the highest standards of conduct and ethics.
- 2.2 Members must not insist that any Employee
 - 2.2.1 Change his or her professional advice (subject to para. 3.1.7)
 - 2.2.2 Take any action, or not take action that the Employee considers unlawful or illegal, or which would be likely to amount to maladministration.

3 The Role of Employees

- 3.1 Employees:
 - 3.1.1 Should implement the policies set by Members.

- 3.1.2 Will ask for guidance on implementation of the policies set by Members if they are unclear about any aspect of those policies.
 - 3.1.3 Give such professional advice to Members as may be required of them from time to time.
 - 3.1.4 Carry out their delegated functions to the best of their ability and in the interests of the Council.
 - 3.1.5 Must remember that he or she is employed by South Derbyshire District Council as a whole and not by any particular part of the Council.
 - 3.1.6 Are under a duty to help all Members and all parts of the Authority equally.
 - 3.1.7 Should take all relevant matters into account when formulating advice to Members.
 - 3.1.8 Will provide training and development to Members as may be required of them from time to time.
 - 3.1.9 Will respond to queries raised by Members in a timely manner.
- 3.2 Employees must not:
- 3.2.1 Set policy other than for the smooth running of office procedures and processes and as may have been delegated under the Council's Constitution and Scheme of Delegations.
 - 3.2.2 Take any action, or not take action, which would be unlawful or illegal or which would be likely to amount to maladministration.

4 Relationship Between Members and Employees

- 4.1 The relationship between Employees and Members should be characterised by mutual respect, which is essential to good local government.
- 4.2 Close personal familiarity between individual Members and Employees can damage professional relationships and prove embarrassing to other Members and Employees. Situations should be avoided that could give rise to suspicion and any appearance of improper conduct. This includes excessive socialising between Members and Employees.
- 4.3 Any close personal or family relationships (e.g. parent/child; spouse/partner) between Employees and Members should be disclosed to the Chief Executive who will then decide how far this needs to be disclosed to others.
- 4.4 Members should not raise matters relating to the conduct or capability of Employees either individually or collectively at meetings held in public / or in the Press. Employees have no means of responding to criticism like this in public. If Members feel they have not been treated with proper respect, courtesy or have any concern about the conduct or capability of an Employee they should raise the matter with the Chief Officer of the directorate concerned.

5 Relationship Between the Leader, Chair of the Council, Members and Employees

- 5.1 The Leader, Chair of the Council and Committee Chairs shall be bound by the same provisions set out in paragraph 2 when acting as Leader/Chair of the Council or Committee Chairs, as they would be when acting as a Council Member.

6 Relationship Between the Chairs of Scrutiny Committees, Members of Scrutiny Committees and Employees

6.1 The Chairs and Members of the Council's Scrutiny Committees and related bodies shall:

- 6.1.1 Seek the advice of the Monitoring Officer where they consider there is doubt about the vires for a decision; or the Monitoring Officer and other appropriate Employees where they consider a decision of a Committee might be contrary to the policy framework.
- 6.1.2 When considering calling Employees to give evidence the Scrutiny Committees shall not normally, without the consent of the relevant Chief Officer, request the attendance of a junior Employee, to ensure that more junior Employees are not put under undue pressure.
- 6.1.3 When asking Employees to give evidence confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Employees may be asked to give a professional opinion, but Employees may not be expected to give a political view.
- 6.1.4 Where they consider it appropriate, ask Employees to explain and justify advice given to Members prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution and their responses to consultations under the Scheme of Delegations.
- 6.1.5 Not to question Employees in such a way as to either be in breach of the Council's Whistleblowing policy and procedure in relation to harassment, or deal with matters which are of a disciplinary nature.
- 6.1.6 At all times respect the political impartiality of the Employees.

7 Relationship Between the Chairs and Members of Other Committees and Employees

- 7.1 This shall apply to all the Council's Policy Committees & Joint Committees, plus Planning Committee, Licensing and Appeals Committee, Standards Committee, and Area Meetings; and the Chairs and Members of those Committees shall:
- 7.1.1 Be bound by the same provisions set out in paragraph 2 when sitting as a Committee; and
 - 7.1.2 Give Employees the opportunity to present any report and give any advice they wish to present or give.

8 Employee Relationships With Party Groups

8.1 When dealing with the various party groups:

- 8.1.1 Any request for advice to a political group or Member will be treated with strict confidence by the Employees concerned and will not be accessible to any other political group.
- 8.1.2 Employees shall exercise care when giving briefings or commenting on the policies and actions of any of the Council's Committees or panels and maintain political impartiality at all times.

8.2 When acting in party groups, and dealing with Employees, Members shall:

- 8.2.1 Recognise that attendance at Party Group meetings by Employees is not compulsory, but Party Groups may properly call upon Employees to support and contribute to such deliberations either by attendance or by preparing documentation for discussion by a group, subject to the availability of resources.
- 8.2.2 Recognise that Party Groups are not empowered to make decisions on behalf of the Council and that any conclusions reached by such groups should not be actioned by Employees.
- 8.2.3 Ensure they do not do anything that may compromise Employee impartiality.
- 8.2.4 Ensure that confidential matters are not divulged to non-councillors.

9 Members in their Ward Role

9.1 When acting in their ward role, Members:

- 9.1.1 Need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on Employee time.
- 9.1.2 Recognise the Employees' right to suggest that senior Employees, the Council or a Committee/Scrutiny Committee should authorise additional work requested by individual Members.

10 Member Access to Documents and Information

- 10.1 Save as provided below every Member of a Committee, Scrutiny Committee and / or Regulatory Committee of the Council has a right to inspect documents about the business of that Committee, Scrutiny Committee or Regulatory Committee as set out in the Access to Information Procedure Rules included within the Council's Constitution.
- 10.2 A Member who is not a member of a specific Scrutiny Committee/Committee or Regulatory Committee may have access to any documents of that part of the Council if:
 - 10.2.1 He or she satisfies the Council's Monitoring Officer, that he or she reasonably needs to see the documents to perform his or her duties; and
 - 10.2.2 The document or papers or information do not contain 'confidential' or 'exempt information'.
- 10.3 A Member should seek advice from the Monitoring Officer in circumstances where he or she wishes to inspect any document or have access to any information about a matter.
 - 10.3.1 In which he or she has a personal or prejudicial interest; or
 - 10.3.2 Where to do so would be in breach of the Data Protection Act 2018.

11 Non-Council Members on Council Bodies

- 11.1 This applies to all those people who are not elected Members of the Council but who are Members (including Independent Members) of, or attend any of the Council's Committees or any other bodies.

- 11.2 This Protocol applies equally to such non-Council members on Council bodies, as it does to Council Members.

12 Press Releases

- 12.1 All Council press releases

12.1.1 Should be issued through the Council's Communications Team.

12.1.2 Should be concerned with matters of policy.

12.1.3 Should not contain anything of a political nature. In this respect regard must be given to the relevant legislation concerning publicity issued by the Council, especially around election time.

13 Correspondence

- 13.1 All correspondence written on behalf of the Council must be written on the relevant headed paper.
- 13.2 When Members are writing in their capacity as a Member they must make it clear whether they are writing on behalf of the Council or as the ward Member.
- 13.3 Correspondence between individual Members and Employees should be treated as confidential unless the Member or Employee indicates otherwise.
- 13.4 All correspondence should normally be open to the inspection of the public. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain 'exempt' within the meaning of Schedule 12A to the Local Government Act 1972, as amended, or if this would be in conflict with the Data Protection Act 2018.

14 Breach of the Protocol

- 14.1 Complaints against Members which amount to an alleged breach of the Council's Code of Conduct for Members must be referred to the Monitoring Officer. Standards Board for England by the appropriate complainant.
- 14.2 Complaints of a breach of this Protocol by a Member may be referred to the relevant Leader and/or Chief Whip of the relevant Political Group or the Monitoring Officer, who may consult with the Chair of Standards Committee if appropriate.
- 14.3 Complaints of a breach of this Protocol by an Employee may be referred to the relevant Director, the Chief Executive or the Monitoring Officer.

15 Further Advice

- 15.1 Any particular cases of difficulty or uncertainty under the Protocol should be raised either with the Chief Executive of the Monitoring Officer who will advise how to proceed.