

CONSTITUTION AND DEMOCRATIC SERVICES COMMITTEE

Date of Meeting	Wednesday 14 th October 2020
Report Subject	Review of Member/Officer Protocol
Report Author	Chief Officer, Governance

EXECUTIVE SUMMARY

The Protocol on Member/Officer Relations (informally called the Member/Officer Protocol) explains how the nature of the relationship between elected Councillors and employed officials should work and describes their different but complementary roles within the Council. It also sets out the behaviours and treatment that each can expect from the other and thereby expands upon the Councillors Code of Conduct.

The Protocol has been reviewed as part of the Standards Committee's rolling programme of looking at each of the codes and protocols in the Constitution. Also, towards the end of 2019 and in early 2020 the Council had undertaken work around specific aspects of the working relationship such as case handling for Councillors and the Flintshire Standard. It is appropriate that the protocol should be amended to incorporate the results of that work. Lastly, it is appropriate to update the protocol to strengthen the guidance on relationships between employees and Councillors in light of the recent Case Tribunal.

RECOMMENDATIONS

1	That the Committee approves the amended protocol.
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REPORT DETAILS

1.00	ROLE AND STATUS OF THE MEMBER/OFFICER PROTOCOL
1.01	<p>The Member/Officer protocol is an adjunct to the Councillors' Code of Conduct and is an important contributor to the working culture within the Council. It sets out:</p> <ul style="list-style-type: none">• the differing roles of members and officers and what they can expect from each other;• further explanation and guidance on appropriate behaviours;• mechanisms for handling concerns or problems within the relationship. <p>An alleged breach of the Protocol cannot be directly enforced in the same way as an alleged breach of the Code of Conduct. However, the document will inform any investigation by the Public Services Ombudsman for Wales.</p>
1.02	<p>The Protocol was considered as part of the Standards Committee's rolling programme of reviewing the codes and protocols in the Constitution. As such the Committee considered whether:</p> <ol style="list-style-type: none">i. the document is still pertinent;ii. changes in other parts of the Constitution impact upon the Protocol;iii. it is up to date generally (i.e. does it reflect current working practices and arrangements within the Council);iv. any other circumstances that might indicate a change is required. <p>The rolling view was timely and took into account:</p> <ol style="list-style-type: none">a) recent work undertaken by the Council to amend the Flintshire Standard;b) the recent review of handling member queries and correspondencec) changes in working practices within the Council;d) the outcome of the Case Tribunal reported to the Committee last time.
	<u>Explaining the Proposed Amendments</u>
1.03	<p>The Protocol is attached as Appendix A to the report showing proposed amendments in tracked changes. Some of the changes are extensive due to the need to modernise language and approach so a clean version is attached at Appendix B. The amendments fall broadly into the four categories outlined above, but I have also tried to simplify the document and update its terminology where appropriate (e.g. the paragraphs on Members' access to buildings). Of course, this work was undertaken prior to the current closure of buildings for health reasons and the rules need to be read as a restatement of what might be in the event that buildings re-open.</p>
1.04	<p>The amendments to the Flintshire Standard expanded upon the meaning of the provision within the code on respect. It sets out behaviours and practical examples of what is meant by treating officers and other Councillors with respect. Without repeating the provisions of the Flintshire</p>

	Standard in full amendments to the Protocol amendments are suggested on matters such as attendance at public meetings.
1.05	<p>The Protocol describes members' rights of access to officers, officer support, Council premises etc. These sections need updating to reflect changes with how the Council works and they need simplifying. For example:</p> <ol style="list-style-type: none"> 1) as the Council moves to open plan offices the arrangements for where and how members and officers meet also need to change. Conversations that once might have taken place between 2 people in a private office will now be audible to other people which could potentially breach confidences and/or distract co-workers whilst they are trying to concentrate; and 2) the Council's opening hours have changed.
1.06	<p>The Protocol deals with personal relationships between Councillors and employees. Councillors must have a geographical tie (residence, land, employment etc.) to the area of the Council in order to be eligible to stand for election. It is common that the majority of employees will also live within the county that they serve. It is inevitable, therefore, that employees and Councillors will have familial, social or even emotional relationships. Provided the relationship is declared by both officer and Councillor through the relevant system for recording interests, it is possible for the Council to put in place arrangements to ensure that Council functions, procedures and safeguards are not affected. The recent Case Tribunal decision showed the potential impact and consequences of covert relationships between Councillors and employees. Amendments have been suggested to reinforce the requirements on declaring interests for this reason.</p>
<u>Consideration by the Standards Committee</u>	
1.07	<p>The Standards Committee considered the protocol at its meeting on 2 March 2020. The Committee proposed a number of changes</p> <ol style="list-style-type: none"> a. in paragraph 7.3 wording to make clear that support is, and will be, provided to Chairs of Committee as well as Cabinet Members; b. in paragraph 9.2 the Committee wanted to refer to consulting members on "key decisions". The phrase has a technical meaning based on the scale of the decision which would not only serve to confuse understanding with our own local interpretation but might be seen as limiting existing consultations. I have therefore put broader wording that encompasses the current practice of consulting members <ol style="list-style-type: none"> i. as required by a resolution of committee or the Constitution; and ii. based on judgement as to the sensitivity of the issue c. grammatical changes
2.00	RESOURCE IMPLICATIONS
2.01	There are no extra resource requirements as a result of the proposed amendments to the protocol.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	Chief Officers and HR have been consulted on proposed amendments to the Protocol.
3.02	The amendments were considered by the Standards Committee on 2 March and will be reported to Full Council for adoption on 17 th November.

4.00	RISK MANAGEMENT
4.01	There are minimal risks associated with the issues in this report.

5.00	APPENDICES
5.01	Appendix A – the Protocol on Member/Officer Relations showing tracked changes Appendix B – “clean copy” of the Protocol on Member/Officer Relations

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	The Flintshire Standard Case Tribunal Decision APW/001/2019-020/CT: Councillor Aaron Shotton Contact Officer: Gareth Owens, Chief Officer, Governance Telephone: 01352 702344 E-mail: Gareth.Legal@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	Public Services Ombudsman for Wales - Public Services Ombudsman for Wales is a statutory role to consider complaints about public services in Wales and complaints that members of local authorities have broken the Code of Conduct.