

PROTOCOL RE: MEMBER AND EMPLOYEE RELATIONS

CONTENTS

Introduction	page E19
The Distinctive Roles of Members and Employees	page E20
What Members can expect of Employees	page E21
What Employees can expect of Members	page E22
Political Neutrality and Impartiality of Employees	page E23
Party Group Meetings	page E24
General Contacts with Employees	page E25
Roles on Outside Organisations and Groups	page E26
Familiarity, Friendships and Relationships	page E27
Employees and their Personal Life	page E28
Members and their use of Council services as a Resident of the Borough	page E29
Trade Unions	page E30
Conduct at Meetings and Events	page E31
Documents and Information - Accessibility and Confidentiality	page E32
Correspondence	page E35
Complaints and Criticism	page E36
Breaches of the Protocol	page E38
Review and Revision	page E39
Appendix - Dealing with Human Resource Issues at Council Meetings	page E41

INTRODUCTION

Barking and Dagenham has traditionally enjoyed excellent relations between Members and employees. Mutual respect and understanding between both is essential to good local government.

The purpose of this Protocol is to guide Members and employees of the Council in their working relations with one another. It brings together many of the practices and values which have previously contributed to a successful partnership but also acknowledges areas which have sometimes caused embarrassment or difficulty. The Protocol also reflects the cultural change which is occurring under the modernising arrangements and has regard to the increasing joint working between Members and employees, and with external partners. Equalities, natural justice and reasonableness are strong underlying intentions throughout.

The Protocol is intended to be clear and understandable by all. Importantly, it seeks to exclude any scope for misunderstanding which might lead to unreasonable behaviour or inappropriate action. The Protocol therefore offers some form of protection for both Members and employees.

The Protocol is underpinned by the separate Codes of Conduct which apply to Members and employees, and the general principles around Standards in Public Life, some aspects of which are particularly relevant to good Member/employee relations:-

Selflessness

Members should never use their position as a Member to gain for themselves, their family or their friends any financial benefits, preferential treatment or other advantage, or to confer such benefits, treatment or advantage improperly on others.

Leadership

Members must respect the political impartiality and professional role of the authority's statutory and other employees, and always act in a way that preserves public confidence in the authority.

The Protocol also operates under the general premise that both Members and employees are working towards the same goals and priorities. It has regard to the Council's wish to be open and honest in its dealings within and outside the Authority, to work corporately, and to do so in a manner which encourages a participative culture.

The Protocol has been endorsed by the Standards Committee, the Assembly, the majority and minority party groups individually, the Chief Executive and his Management Team, and the Trade Unions. It will be reviewed annually by the Standards Committee who will make recommendations to the Assembly as appropriate.

The Protocol came into effect in May 2001.

It applies to all elected Members of the Council, **and, where relevant, statutory co-opted members**, and **to** all employees of the Council, with the exception of those who are Schools based who have a separate code. It is also intended that the Protocol should apply to any consultants, contractors or agency personnel working on behalf of the Council and it is the responsibility of the employing manager to ensure that relevant sections of the document are brought to the attention of such workers at the beginning of their employment.

THE DISTINCTIVE ROLES OF MEMBERS AND EMPLOYEES

It is important that both Members and employees respect their distinctive roles in order for relations to be clear and appropriate.

Members:

Members are elected democratically. It is their policies, ideas and decisions which people vote for.

It is their role to:-

- Represent the local community and ensure that its best interests are considered during policy making
- Set the Council's strategic direction, the policy framework, corporate goals, overall priorities and targets
- Develop policy proposals with professional advice from employees
- Monitor the implementation and effect of their decisions
- Add a political dimension when appropriate

Employees:

Employees are employed by the Council to undertake an organisational role. It is their job to:-

- Deliver services to the community according to the policies and requirements set by the Council
- Draft policy proposals which accord with the overall framework set by Members
- Give professional advice in the course of policy development
- Manage the organisation

Put simply, Members are responsible for determining policy and the Council's strategic direction; employees are responsible and accountable for implementing policy and delivering services.

Given these roles, employees are employed to work within and pursue Council policies and priorities unaffected by personal inclinations.

Employees are accountable to their Managers and ultimately their Chief Officer. They work to the instructions of their Manager, and not to individual Members of the Council - whatever office a Member might hold. Members should not interfere with matters that are properly the responsibility of employees.

(The Council's Scheme of Delegation explains in more detail where specific responsibilities lie).

WHAT MEMBERS CAN EXPECT OF EMPLOYEES

Members can expect employees:-

- To do their job effectively and efficiently
- To strive to provide services which offer best value
- To behave in a manner which accords with the standards set by the Council
- To be helpful, respectful and courteous to Members
- To assist Members in carrying out their role as Members of the Council in connection with Council business (they cannot, however, assist with party political or campaigning activity, or with private business)
- To deal with Members' enquiries fairly and efficiently
- To be open and honest with Members. To tell the whole story, giving any bad news as well as the good.
- To work with all Members equally and fairly
- To act lawfully
- To give advice or recommendations based on reasoned options
- To ensure that Members have all the information necessary to make informed judgements
- To maintain confidentiality where it is proper for them to do so
- Not to canvass Members or otherwise seek to gain favour from them for personal or career advantage
- To have regard to social hours and generally to be sensible about contacting Members at potentially inconvenient times, unless in an emergency or otherwise agreed.

WHAT EMPLOYEES CAN EXPECT OF MEMBERS

Employees can expect Members:-

- To accept that employees are accountable to their Manager
- Not to become involved in the day to day management of the Council
- To accept that employees act independently of political bias
- To fully consider advice and recommendations for the purpose of making informed judgements
- Not to ask employees to breach Council policy or procedures, or to act unlawfully, or outside the terms of their job
- Not to exert influence or pressure, or request special treatment, because they are a Member
- Not to request unauthorised access to resources or information held by the Council
- To treat employees in a reasonable manner
- To be open and honest with employees
- To act lawfully
- To maintain confidentiality when appropriate to do so
- To respect that employees have private lives and not to contact them outside normal working hours, or at home, unless in an emergency, or if the employee is officially working from home, or otherwise agreed

POLITICAL NEUTRALITY AND IMPARTIALITY OF EMPLOYEES

The National Code of Conduct for local government employees states:-

"Employees serve the Authority as a whole. They must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected".

Members should understand that employees will generally operate in a politically neutral capacity. By law, some posts are specifically designated as "politically restricted", meaning that they cannot be filled by employees who are linked to a political party or group, either through direct involvement or by, for example, canvassing on their behalf. These are mainly posts at a senior level within the organisation or where the postholders are regularly involved, as part of their work, in advising Members.

Members should not discuss party politics with employees nor must they assume that there is an allegiance to a particular party. Members should not place employees in an embarrassing situation where, for example, they feel they have to agree with a particular political line, whether this be nationally or locally based, although employees must follow the overall objectives of the Council and must not work against them.

Within the framework of a formal meeting, however, it is natural that Members will make political statements. Employees should have a general awareness of the Council's political direction and acknowledge that at a strategic level this is bound to have an influence. But, it is not for employees to challenge such direction and they will co-operate with it - unless it is illegal.

It is not improper that employees may sometimes wish to seek political guidance in framing policy proposals. However, when they write reports or give advice they have a duty to give professional advice and to make Members aware of all the options available.

The section which follows deals specifically with Party Group meetings.

PARTY GROUP MEETINGS

It is common practice for party groups to give preliminary, informal consideration to Council business in advance of the formal decision making process. Whilst it is not normal practice, employees may be asked to attend party group meetings to brief Members in a professional capacity. However, this is seen as happening rarely, not regularly. Such attendance will be on the understanding that other party groups will be similarly served should they so request. The political neutrality of any employee attending a group meeting must be respected.

Employees will respect the confidentiality of any party group discussions at which they are present and, in particular, not relay any such discussion to another group.

All requests for an employee to attend a party group meeting should be made through the Chief Executive (or, in their absence, another member of the Management Team, i.e. a Director) who will judge which employee is the most appropriate to attend. This avoids any danger of an individual employee being identified with the party concerned. The employee will be at senior (usually Director or Senior Manager) level.

Employees may also be asked to give support in other ways such as briefing Chairs or spokespersons prior to a formal meeting. Again, whilst in practice such support is likely to be in most demand from whichever party group is in control of the Council, such support is available to all groups.

In all these instances it is important that Members and employees understand the following:-

- (a) employee support cannot extend beyond providing information and advice in relation to Council business - employees cannot be involved in party business. Where possible, this rule can be assisted if employees are not present when party business is being discussed - thought should be given to the way in which the business for the meeting in question is structured
- (b) party group meetings cannot make Council decisions and any conclusions reached cannot be interpreted as such or acted upon
- (c) where employees provide information and advice to a political group this cannot act as a substitute for providing all necessary detail to a formal meeting

Special care is needed where employees are involved in providing information or advice to a party group which includes non-Members of the Council. Such people are not bound by the national (local) Code of Conduct (in particular the provisions concerning declaration of interests and confidentiality). Employees may not, therefore, be able to provide confidential detail as they would to a Members only meeting.

Any cases of particular difficulty or uncertainty in relation to employee advice to party groups should be raised with the Chief Executive.

GENERAL CONTACTS WITH EMPLOYEES

Members are free to approach any Council department for any information, explanation or advice that they need to assist them in carrying out their role as a Member.

Contact between Members and employees will normally be at a senior level or with employees whose role is naturally associated with Members. Generally, enquiries should be made to the appropriate service manager or to a designated liaison employee within the department. (Other employees might feel awkward, unsure, or unduly pressurised to comply with Members' requests.) This does not, however, mean that Members should have no contact at all with employees at all levels; indeed, general communication and interaction should not be discouraged.

Generally, Members should contact the Director or Head of Service if the matter is very serious or sensitive, or if they are experiencing difficulties in getting a response from the service manager.

Members also have the support facility offered by Members' Services within the Chief Executive's Department. Enquiries can be made on a Member's behalf by the staff in this central unit.

Care must be taken to ensure that a complaint, as opposed to an enquiry, on behalf of a constituent is put through the official complaints procedure.

Details of an appropriate contact employee is given in all written communications with Members.

Members should not put pressure on any employee in relation to matters which have been delegated to employees. This might lead employees to make decisions that:

- are not objective and cannot be accounted for, and/or
- favour, unfairly, one member or group of the public over another

Equally, Members should avoid bringing any influence to bear on an employee to take any action which is:

- against normal procedures or Council policy
- a breach of the Code of Conduct for employees
- in conflict with the Council's Constitution
- unlawful

Employees have a duty to report to their Director any attempt to exert improper influence. The Chief Executive will also personally wish to be made aware of any such instances and investigate as necessary.

Members must avoid becoming involved in any employee related matters as this could jeopardise official consultation, grievance, disciplinary and appeal procedures.

See also the section on Documents and Information - Accessibility and Confidentiality.

ROLES ON OUTSIDE ORGANISATIONS AND GROUPS

It is natural that some Members and employees will be members - in their own right - of organisations or groups (political, voluntary or otherwise), within the community. Some Members and employees may work for such bodies.

It is essential that Members and employees do not use their Council position to obtain preferential treatment for the organisation or group concerned in a way that a non-Member or non-employee could not. To do so would be totally improper. In particular it would make it very awkward for staff who might find it difficult to suggest that a Member should use the proper channels when they are clearly not carrying out constituency work.

If a Member or employee has a role on an outside organisation or group, whether it be in a personal capacity or as a result of a position held on the Council, it is important to be aware that this could create a conflict of interest. A Member can act in the interest of the external body but must recognise the need not to take part in any Council decisions that affect the organisation or group - whether they be nominated by the Council or not - or to take part in any work associated with the organisation or group which could place them in a situation whereby they might be asked to make a judgement on a Council action.

Members and employees should remove themselves from any potential conflict of interest. Where there is doubt, it is always wise to err on the side of caution.

FAMILIARITY, FRIENDSHIPS AND RELATIONSHIPS

Close personal familiarity, in the office or at meetings, between individual Members and employees should be avoided ~~as far as possible~~ as this can damage working relationships and prove embarrassing to colleagues on both sides. In particular, it could bring into question an employee's ability to deal impartially with other Members, and vice-versa.

However, it is recognised that personal, family or business relationships or friendships will exist between some Members and employees. These should be made known by a Member to the Leader of the party group (or another Member of the group if so designated as the contact point), and by an employee to their Director - for their information. The Director will inform the Chief Executive and the Head of Organisational Development.

Persons engaged in such friendships or relationships should take special care not to seek, or be seen, to influence their positions through their respective friend or partner. Name dropping to seek advantage is totally unacceptable. People should also go out of their way to ensure that colleagues are not placed in an awkward or embarrassing situation as a result of a friendship or relationship.

A Member involved in a relationship or otherwise associated with an employee should declare an interest if, on any occasion, they are involved in decision-making directly related to the employee concerned, or the service in which they work. Where appropriate, they should seek to avoid being a member of a related meeting.

Certain informal gestures in a formal work setting may be innocently made but could be perceived by the recipient to be unwelcome or embarrassing. Such gestures should always be avoided.

EMPLOYEES AND THEIR PERSONAL LIFE

Many employees live in the Borough and may wish to attend local events or public meetings in a personal capacity - for example, a Ward Surgery or a Community Forum. Members should respect this and not seek to "use" the individual concerned as an employee at such times.

Where necessary, for example, in a Ward Surgery, anything discussed by an employee (in confidence or otherwise) as a resident should be so respected by the Member and not discussed in the workplace.

At public meetings and the like, an employee, as a resident, may wish to voice concerns about certain services or facilities in the area, or to ask questions or make suggestions. This is natural and acceptable to a certain degree. However, that person should not maliciously undermine the Council by adverse or negative comments. At all times, employees must observe the standards set out in the national Code of Conduct.

The area in which an employee lives should have no bearing on their employment and Members should not, at any time, show favour to those who live in the Borough or those who originated from the area.

MEMBERS AND THEIR USE OF COUNCIL SERVICES AS A RESIDENT OF THE BOROUGH

There will be many times when Members use Council services as a resident - sometimes the service may be of a sensitive, confidential or personal nature (e.g. a social service, financial benefits etc.) and there may be some awkwardness or embarrassment on either side.

In all instances, the employee providing the service will maintain full confidentiality where this is appropriate and will treat the Member concerned in the same way as any other customer. The Member will not seek or expect any preferential treatment.

TRADE UNIONS

The Council has traditionally welcomed and recognised trade union membership and the important role that trade union involvement and participation offers. Relations are generally very good.

The Employee Joint Consultative Committee provides a forum for effective communication and consultation between all employees and the Council. This meeting is represented on the Council side by Members and on the employee side by trade union officials. It provides an opportunity to promote and foster good employee relations, and prevent or remove any friction or misunderstanding.

Trade union representatives may sometimes express views on behalf of their union which may be critical of the Council as an employer. This is acceptable in this context and a normal part of trade union negotiations or discussions. The fact that a representative may speak out in this way on behalf of colleagues should not be held against that person in their personal employment.

CONDUCT AT MEETINGS AND EVENTS

Members and employees should observe the degree of formality in behaviour that is appropriate to the event.

A formal approach should generally be applied in open meetings although the use of first name terms is acceptable if there is a consensus. The important issue is that the audience should be able to identify who is speaking or being addressed.

Such formality between Members and employees is not usually necessary at social events. However, any event attended as a result of the Member or employee's role with the Council should have regard to the fact that close personal familiarity might embarrass others or damage external relationships, and therefore should be avoided. Where there is doubt, a more formal approach is potentially less damaging than a casual one.

DOCUMENTS AND INFORMATION - ACCESSIBILITY AND CONFIDENTIALITY

General

Members are free to approach any Council Department to provide them with such information, explanation or advice (about that Department's functions) as they may reasonably need to assist them in carrying out their role as a Member of the Council. This can range from a request for general information about some aspect of a Department's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the relevant service manager or departmental contact point. **Employees have a duty to assist Members with their requests subject to any statutory limitations referred to in this document. Where an employee is unable to assist they should provide a full explanation.**

Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a committee meeting. This right applies irrespective of whether the Member is a member of the committee concerned. This right does not, however, apply to any matters which are subject to restricted circulation and Members should not pressure an employee to provide such reports or tell them what they are about. Such reports will, however, be minimal. In the main, these reports will contain personal information about named employees (further detail is provided in the Appendix).

The common law right of Members is much broader and is based on the principle that any Member has a right to inspect Council documents provided they can justify that the information is reasonably necessary to enable the Member to perform their duties as a councillor. This is commonly referred to as the "need to know" principle. It can sometimes be unclear.

The exercise of this right depends, therefore, on the Member's ability to demonstrate that they have the necessary "need to know". In this respect a Member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. However, on the other hand, subject to any Data Protection issues, Members would have a right to trawl files and documents should they feel this would be beneficial to any scrutiny investigation.

A service manager may make the judgement but if they are in any doubt they will seek advice from their Director or Head of Service. In the event of dispute, the Chief Executive will determine the matter. The judgement about documents required for scrutiny purposes is the responsibility of the Head of Democratic Support.

In some circumstances (e.g. a committee Member wishing to inspect documents relating to the functions of that committee), a Member's "need to know" will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms.

Whilst the term "Council document" is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a "need to know", and therefore has no right to inspect a document which forms part of the internal workings of another party group.

Any Council information provided to a Member must only be used for the purpose for which it was provided i.e. in connection with the proper performance of their duties as a Member of the Council. ~~This point is emphasised in the National Code of Local Government Conduct in the following terms:-~~

~~"26—As a councillor or a committee or sub-committee member, you necessarily acquire much information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. You should never disclose or use confidential information for the personal advantage of yourself or of anyone known to you, or to the disadvantage or the discredit of the council or anyone else."~~

Under Data Protection legislation Members are not entitled to receive personal information regarding an individual, e.g. a constituent, unless the employee is authorised by the person or family concerned to do so. It is not enough for a Member to say that the individual has given such authority; it either needs to be presented in writing and signed by the individual, or the employee holding the information will seek authority directly from the individual.

Data Protection Regulations also set out the circumstances in which sensitive personal data can be provided to Members. Sensitive data is that which includes information relating to a person's:

- racial or ethnic origin
- political opinions
- religious or other similar beliefs
- trade union membership
- physical or mental health or condition
- sexual life
- offences (including alleged offences)
- criminal proceedings (including outcomes and sentences)

The Regulations are quite complex and there are numerous conditions that apply in different circumstances. Members only need to be aware of the existence of the regulations and understand that any requests for access to such sensitive data must be dealt with on a case by case basis. Detailed advice can be obtained from Legal Services.

Where sensitive data can be provided to Members there may be reasons why that data cannot be passed on by the Member to the individual who the information relates to. Briefly, this relates to situations where the individual may harm themselves or others as a result of having access to the information. Similarly it is necessary to safeguard the employees and other professionals dealing with the individual.

Any request for information which falls within the description of sensitive personal data, can only be made to the Chief Executive as the Chief Executive is the person designated by the Council as having responsibility for ensuring that the Council complies with its obligations under the Data Protection legislation.

All requests must be in writing and signed by the Member and, where possible, the individual concerned. A form has been devised for this purpose. To enable the process to function speedily and efficiently, the Chief Executive can ask the relevant Director or Head of Service to assist in any dealing with requests for sensitive personal data, but the initial request must be to the Chief Executive.

On receiving any sensitive personal data a Member continues to be subject to the same degree of confidentiality and restriction of disclosure as the Council and its employees. This means that the information must only be used for the purpose for which it was provided. It can only be shared with individuals who are covered by the same confidentiality agreement or who the Chief Executive (or Director/Head of Service) has agreed can have access to the information.

Where any document, copy correspondence or information is so marked or said to be confidential, Members and employees must strictly observe this. This also applies to any information which is generally recognised as being of a confidential nature. It is always best to err on the side of caution or seek advice if necessary.

A Member must not prevent another person from gaining access to information to which that person is entitled to by law.

Summary of Members' Right of Access

Situation	Right of Access
Open agenda reports and supporting documentation	Full and unrestricted access to all Members
Member of a Committee with a restricted access report	Full and unrestricted access to Member of committee only
Member but not of a Committee with a restricted access report	<p>Access depends upon Members demonstrating:</p> <ul style="list-style-type: none"> • "Need to Know" • Scrutiny role • Consent of individual • Exception identified in this guidance
Member wishes to see employee details	Disclosure if within exceptions of "Employee Related Information" otherwise no disclosure
Member without written authorisation to inspect/receive sensitive personal information	Seek initial advice from Legal Services before making a formal request to the Chief Executive. Each case will depend on the circumstances
Member with written authorisation to inspect/receive sensitive personal information	Member will need to show written authorisation to inspect/receive sensitive personal information
The Full Electoral Register	Information relating to the Member's Ward only

Employee Related Information

Information about individual employees will, generally, not be released. This is because, as an employer, the Council is obliged to respect confidentiality. There are Data Protection and Human Rights issues.

There will, however, be some circumstances when the general principles will be set aside. These are:-

- (1) where an employee's action or inaction has led to potential or actual harm to the community, or presents a serious risk to the community;
- (2) where the employee's action or inaction has caused serious financial loss to the Council or the community;
- (3) where the employee's action or inaction has caused damage to the Council's reputation;
- (4) where the actions or inaction of the employee has caused, or is likely to cause, an issue relating to public confidence in the Council's services;
- (5) where the action or inaction of the employee has caused or is likely to cause an issue relating to statutory or government bodies' confidence in the Council's services;
- (6) where the employee's action or inaction needs to be informed to Members for them to make decisions in relation to Council business;
- (7) where a Director, in consultation with the Chief Executive and Head of Organisational Development and Employee Relations, reaches the view that the matter is of such gravity that Members should be informed and, if need be, consulted as to action that needs to be taken;
- (8) where it will be necessary for Members to authorise action, including legal action, directed either at the employee concerned or that business to which the employee's action or inaction relates.

In any of these instances, details will be passed to the following Members only on a strictly confidential basis:-

The Leader and Deputy Leader of the Council
The Chair of the Assembly
The Leaders of Minority Groups

Only with the Chief Executive's authority, in consultation with those Members, will the information be released to other Members.

(A specific protocol on dealing with human resource issues at meetings is attached as an appendix to this document).

Requests by Other Elected Representatives

For clarity, this section of the Protocol also deals with other elected political representatives including Members of the UK Parliament (MP's), the European Parliament (MEP's) and the Greater London Authority (MGLA's).

Other elected representatives' right of access to Council Agenda Reports is no greater than a member of the public. They therefore have a right to access all open agenda material. They do not have a right to access any material, which is exempt from publication under Schedule 12A of the Local Government Act 1972. They do not have any right to access to details about employees.

The right of other elected representatives to sensitive personal data will depend upon the context that a request is made and, as with Members, advice should be sought from Legal Services.

Summary of Other Elected Representatives Right of Access

Situation	Right of Access
Open Council agenda reports and supporting documentation	Full and unrestricted access
A restricted access Committee report	No access
Employee details	No access
Without written authorisation to inspect /receive sensitive personal information	Seek initial advice from Legal Services before making a formal request to the Chief Executive. Each case will depend on the circumstances
With written authorisation to inspect/receive sensitive personal information	Will need to show written authorisation to inspect/receive sensitive personal information
The Full Electoral Register	MPs: Information relating to the MP's Constituency MEP'S and MGLA: Information relating to both constituencies
The Edited Register	Information across both constituencies

CORRESPONDENCE

Correspondence between an individual Member and an employee will not normally be copied (by the employee) to another Member. Where the employee feels that this is appropriate, it will be made clear to the original Member. Clearly this will not apply to any correspondence which is marked 'Confidential' unless there are justified reasons which will be discussed with the originating Member.

When writing to a Member, or group of Members, the correspondence will clearly indicate the names of any others who have been sent the same correspondence, including any who have been copied in for their information.

This is in the spirit of openness and to avoid any surprises or later allegations around "silent copies".

COMPLAINTS AND CRITICISM

Sadly, but inevitable in such a large organisation, there will be occasions (hopefully rare) when a Member or employee may wish to make a complaint against the other, or criticise actions. It is important that procedures are in place to deal with any cases.

Complaints by Members

A complaint by a Member about an employee should be made to the Director of the service in question. If, however, a Member feels that the matter is one which could be determined by the relevant service manager or Head of Service, the complaint may be referred directly to that person with a copy to the relevant Director.

Complaints should be in writing, marked "private and confidential". A copy should always also be sent to the Chief Executive and the Head of Organisational Development and Employee Relations (HODER).

A complaint by a Member against a Director should be made **in writing marked "private and confidential"** to the Chief Executive.

A complaint by a Member against the Chief Executive should be made **in writing marked "private and confidential"** to the Leader of the Council.

A complaint by a Member about a former employee should be made to the previous Director (copy to the Chief Executive and the HODER) who will decide on the best way of dealing with the matter depending on the circumstances. Where felt necessary this will be in consultation with the Chief Executive, HODER, and/or Monitoring Officer as appropriate.

Any complaint can only be about a matter which the complainant knew about within the last 12 months.

Members have a right to know if action has been taken to correct a matter, but they must not either

- (i) insist, or be seen to insist, that an employee is disciplined or
- (ii) influence the level of any disciplinary action which might be taken against an employee

In all cases, Members and employees have an obligation to maintain confidentiality throughout.

At the earliest opportunity and no later than within ten working days, the recipient of the complaint will acknowledge receipt and give an indication of what action they intend to take and roughly how long they need to investigate the matter.

Members have a right to be told the outcome of any disciplinary case, but no entitlement to detailed information about the hearing or its conduct.

In any instance, if a Member is not satisfied that action has been taken to set matters straight, they may refer the matter directly to the Chief Executive for independent assessment.

Members must not sit on any meeting of the Personnel Board dealing with a case which they have been involved with.

Members have the right to generally question, indeed criticise, reports or the actions of employees, but they should always:-

- avoid personal attacks on employees
- ensure that any criticism is constructive and well founded

Members should avoid undermining employees at meetings, or in any public forum. This would be damaging, both to effective working relationships and to the public image of the Council.

Where a Member has had reason to question, criticise or complain about the actions of a particular employee, once the issue has been dealt with through appropriate mechanisms, irrespective of the outcome, professional behaviour is expected from both parties - there must be no grudge to bear on either side. To do so openly or behind the scenes will only fuel continued unrest and is not in the Council's interests. Any such difficulties will be referred by the employee to their Director or by the Member to their respective party group leader.

The Head of Organisational Development and Employee Relations is overall responsible for monitoring complaints by Members about employees.

Complaints by Employees

Any complaints which allege that a Member has breached the Members' Code of Conduct must be referred directly to the Standards Board for England (with a copy to the Council's Monitoring Officer), or passed to the Monitoring Officer for onward transmission to the National Board.

Any other complaints about Members will be dealt with as follows:

A formal complaint by an employee about a Member should be made to the employee's service manager who will deal with the matter directly, if appropriate, or refer the matter to their Head of Service or Director. In all instances a copy of the complaint will be given to the Director. The Director, Head of Service or service manager, will investigate the matter and advise the Leader of the party group of the complaint.

Complaints should be in writing, marked "private and confidential". A copy should always also be sent to the Chief Executive and the **Council's Monitoring Officer** ~~Borough Officer for Democratic Support and Legal Services [BODSLS]~~.

A complaint against a party group Leader will be referred to the Leader of the Council.

A complaint against the Leader of the Council should be made in writing to the Chief Executive **with a copy to the Council's Monitoring Officer**.

A complaint by an employee about a former Member should be made in writing to the employee's service manager who will deal with it personally as they see fit, or refer it to their Director or Head of Service for consideration.

Any complaint can only be about a matter which the complainant knew about within the last 12 months.

~~Where considered appropriate by the BODSLS in his/her capacity as the Council's Monitoring Officer, a complaint will be referred to the Standards Board for England. This will apply in any instances where there is an alleged breach of the Members' Code of Conduct.~~

As soon as possible but within no later than ten working days, the recipient of the complaint will acknowledge receipt and give an indication of how the matter will be dealt with and roughly how long it might take.

Again, confidentiality should be maintained.

The ~~Council's Monitoring Officer~~ Council's Monitoring Officer BODSLS is overall responsible for monitoring complaints received from employees about Members.

Complaints by Members about Members

A complaint by a Member about another Member should be made in writing to the Chief Executive who will determine how best to deal with it, in consultation with the Council's Monitoring Officer as necessary.

If, however, the matter is a party issue, it should be dealt with through party mechanisms with no officer involvement.

If the complaint alleges a breach of the Members' Code of Conduct it should be referred to the Standards Board for England, or the Council's Monitoring Officer for passing on, as referred to above.

Complaints by Employees about Employees

A complaint by an employee about another employee - in most circumstances it will be appropriate to use the relevant procedure (such as the grievance, harassment and bullying procedure). If the complainant can show that none of these are appropriate they should refer the matter to their line manager or their departmental Human Resource team.

BREACHES OF THE PROTOCOL

Relevant Sections offer advice as to how to deal with any difficulties around or breaches of this Protocol. It is hoped that these routes will successfully and quickly resolve any issues.

In all other cases, a breach of the Protocol by a Member may be reported to the Council's Monitoring Officer (MO) (Room 160, Town Hall, Barking) who will decide whether or not to deal with the matter directly, or whether the matter needs to be referred to the Standards Board for England, or another more formal avenue.

The MO will acknowledge receipt of the complaint within five working days and give an indication of how it is proposed to deal with it.

Where the matter is dealt with at MO level, there is a right of appeal against the outcome within ten working days after the complaint has been dealt with, to the Standards Committee.

In instances of a breach of the Protocol by an employee, the matter will be dealt with through the Council's disciplinary or other relevant employee related procedures.

REVIEW AND REVISION

This Protocol will be reviewed annually by the Standards Committee who will make any recommendations for revision to the Assembly.

The Protocol is part of the Council's Constitution and the Assembly is responsible for its adoption and any revisions necessary.

Any typographical or minor revisions can be agreed by the Head of Democratic Support.

Standards Committee March 03/ *(Contact Officer : Nina Clark : Tel. 020-8227 2114)*
Assembly April 03

APPENDIX TO MEMBER/EMPLOYEE RELATIONS PROTOCOL

DEALING WITH HUMAN RESOURCE ISSUES AT THE EXECUTIVE/SCRUTINY MANAGEMENT BOARD/ PERSONNEL BOARD/ASSEMBLY COUNCIL MEETINGS

Introduction

When Members consider items about the people we employ, in their capacity as the employer, ~~they the Authority~~ must be mindful of a number of matters:

- Employees have rights, on an individual basis, to be treated fairly. (This includes expecting the employer to maintain confidentiality about an individual's personal and employment details)
- Information relating to employees is often confidential in nature and should not be available widely throughout the organisation (at Member or employee level). Only those who need to know should know
- Members, as the employer, should have the opportunity to consider, debate and decide upon issues without managers/employees being present
- A variety of decisions on Human Resource (HR) matters, including the fair treatment of people by their employer, are subject to external scrutiny.

For these reasons:

- Written information to Members on HR management and/or personal HR matters, which address employee's issues in respect of an individual, should be restricted to relevant Members and appropriate employees. This information should not be included as part of the usual circulation for a report.
- The meeting considering these matters should be conducted in private and those people who should not be in attendance should be asked to leave the meeting.

Guidelines:

The following persons should have access to all private and confidential reports about Human Resources matters which relate to individual employees (no other persons should have such access unless otherwise determined by the Chief Executive and/or the Head of Organisational Development and Employee Relations (HODER).

All Members of the Council

The Chief Executive

The Head of Organisational Development and Employee Relations

The Monitoring Officer

All members of The Management Team, unless otherwise determined by the Chief Executive and/or the HODER.

Any other officers authorised by the Chief Executive and/or the HODER (usually, these include the Head of Corporate Communications, the relevant Democratic Services Officer and specified Human Resources Officers).

Independent members of the Standards Committee (SC) for SC purposes only.

~~The Chief Executive (CE) and the HOD will have access to all reports and all meetings of Members about Human Resource matters.~~

~~The HOD may delegate some matters to the relevant HR Manager (Central or Departmental) and/or Legal Officer (internal or external), who will have access to appropriate reports and meetings.~~

The following persons should be able to attend Council meetings about private and confidential Human Resources matters (no other persons should have such access unless otherwise determined by the Chief Executive and/or the HODER

Members of the meeting considering the matter.

Other Members of the Council - only if they can demonstrate a "need to know" as specified elsewhere in this guidance.

The Chief Executive.

The Head of Organisational Development and Employee Relations.

The Monitoring Officer.

All members of The Management Team, unless otherwise determined by the Chief Executive and/or the HODER.

Any other officers authorised by the Chief Executive and/or the HODER (usually, these include the Head of Corporate Communications and the relevant Democratic Services Officer).

Independent members of the Standards Committee (SC) for SC purposes only.

~~Where the Monitoring Officer is involved, they will have access to appropriate reports and meetings.~~

The following additional guidelines also apply:

Where there are any financial implications to be considered by the Council or financial issues to be considered arising from a Monitoring Officer investigation, the **Chief Financial Officer** ~~Director of Finance~~ will have access to appropriate reports and meetings **in any event.**

There may be meetings where it is appropriate to invite representatives of the Trades Unions. **In such cases, arrangements will be made by the Head of Organisational Development and Employee Relations and the relevant Democratic Services Officer.** ~~and cognisance must be given to this. The designated Democratic Services Officer should ensure that they know when this is appropriate. Again, if there is any doubt, the HOD should be consulted.~~

~~Private and Confidential items – (General)~~

- ~~• All Directors may receive the agenda.~~
- ~~• All may remain in attendance at the meeting should they choose to do so.~~
- ~~• Any other employee, where relevant, by invitation from the CE, relevant Director, and/or HOD may be supplied with the relevant report and be invited to attend in a support capacity – e.g. Head of Service/Service Manager/HR Manager or delegate.~~
- ~~• Co-opted members, members of the public and staff (other than those outlined above) should not be provided with the report and should be asked to leave the meeting at the appropriate point.~~
- ~~• Independent members of the Standards Committee (SC) may receive the report for SC purposes and remain in attendance.~~

~~Private and Confidential items in relation to Senior Management issues – (General – not including local terms and conditions and pay)~~

- ~~• All Directors may receive the agenda.~~
- ~~• All may remain in attendance at the meeting should they choose to do so.~~
- ~~• Any other employee, where relevant, by invitation from the CE and/or HOD only, may be supplied with the relevant report and be invited to attend in a support capacity – e.g. Head of Service/HR Manager.~~
- ~~• Co-opted members, members of the public or employees (other than those outlined above) should not be provided with the report and should be asked to leave the meeting at the appropriate point.~~
- ~~• Independent members of the Standards Committee (SC) may receive the report for SC purposes and remain in attendance.~~

~~Private and Confidential items in relation to Senior Management issues (Specific and/or General re local terms and conditions and pay)~~

~~Where an issue relates specifically to the employment of a Manager in the JNC range, (therefore is a personal, individual employment issue which is confidential)–~~

~~The CE and/or HOD will establish whether any Directors receive the agenda and are invited to remain in attendance at the meeting.~~

- ~~Any other employee, where relevant, by invitation from the CE and/or HOD only, may be supplied with the relevant report and be invited to attend in a support capacity – e.g. Head of Service/HR Manager.~~
- ~~Co-opted members, members of the public and employee (other than those outlined above) should not be provided with the report and should be asked to leave the meeting at the appropriate point~~
- ~~Independent members of the Standards Committee (SC) may receive the report for SC matters and remain in attendance.~~

~~Where an issue relates to general local terms and conditions of service and pay matters in the JNC range, Members, as the employer, should retain the right to debate and consider the issue, in private, before making their decision. Therefore –~~

- ~~The CE and/or HOD will establish whether any Directors receive the agenda and are invited to remain in attendance at the meeting.~~
- ~~Any other employee, where relevant, by invitation from the CE and/or HOD only, may be supplied with the relevant report and be invited to attend in a support capacity e.g. Head of Service/HR Manager.~~
- ~~Co-opted members, members of the public and employees (other than those outlined above) should not be provided with the report and should be asked to leave the meeting at the appropriate point.~~
- ~~Independent members of the Standards Committee (SC) may receive the report for SC purposes and remain in attendance.~~

Private and Confidential items in relation to any employee (Specific)

~~Where an issue relates specifically to the employment of any employee, (therefore is a personal, individual employment issue which is confidential) –~~

- ~~The CE and/or HOD will establish whether any Directors receive the agenda and are invited to remain in attendance at the meeting. Usually, the Director from the relevant department will be provided with the report.~~
- ~~Any other employee, where relevant, by invitation from the CE and/or HOD or the Director of the relevant department only, may be supplied with the relevant report and be invited to attend in a support capacity – e.g. Head of Service/Service Manager/HR Manager or delegate.~~
- ~~Co-opted members, members of the public and employees (other than those outlined above) should not be provided with the report and should be asked to leave the meeting at the appropriate point.~~
- ~~Independent members of the Standards Committee (SC) may receive the report for SC purposes and remain in attendance.~~

(Contact Officer: Head of Organisational Development and Employee Relations Tel. 020-8227 2130)

Standards Committee March 03/Assembly April 03

