



# **MEMBER AND OFFICER PROTOCOL FIRST AGREED NOVEMBER 2012**

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**DUMFRIES AND GALLOWAY COUNCIL**  
**MEMBER AND OFFICER PROTOCOL**

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**Updates:**  
**Full Council 28 November 2013 – section 6**

## **1. INTRODUCTION AND PRINCIPLES**

- 1.1 The purpose of this Protocol is to guide Members and Officers of Dumfries and Galloway Council in their relations with one another.
- 1.2 It also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared objectives of this Protocol and these Codes are to enhance and maintain the integrity of Dumfries and Galloway Council.
- 1.3 This Protocol forms part of the Council's Standing Orders and should be read in conjunction with the Councillor's Code of Conduct and The Code of Conduct for Local Government Employees in Dumfries and Galloway.
- 1.4 This Protocol is based on and subsidiary to these Codes.

## **2. ROLES AND RESPONSILITIES OF MEMBERS AND OFFICERS**

- 2.1 Both Members and Officers are servants of the public: however, their roles and responsibilities are separate and distinct. Members are responsible to the electorate and serve only as long as their term of office lasts. Officers are responsible to the Council and their job is to give advice to Members and the Council and to carry out the Council's work under the direction and control of the Council and its Committees and Sub-Committees.
- 2.2 Member and Officer working relationships should be conducted in a positive and constructive way and mutual respect is vital. Members and Officers will adopt reasonable standards of behaviour and courtesy towards each other and neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.
- 2.3 A Member should not normally raise with an Officer any matter concerned with the day to day direct operational management of the Council's Services; that is the responsibility of Officers. Officers within a Service are accountable to their Head of Service and ultimately to the Chief Executive as Head of Paid Service in terms of the Local Government and Housing Act 1989. While Officers should always seek to assist a Member, they must not go beyond the bounds of whatever authority is delegated to them.
- 2.4 Members and Officers shall not engage in open criticism of each other.
- 2.5 A Member should not raise matters relating to the conduct or capability of an Officer in public or through the media. If a Member feels that he/she has not been treated with proper respect or courtesy or has any concerns about an Officer, he/she should first raise the matter with the Officer in person. If this fails to resolve the issue, he/she should raise the matter initially with the appropriate Line Manager and ultimately with the appropriate Director. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

- 2.6 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a Service.
- 2.7 Where an Officer feels that a Member has not properly treated him/her with respect and courtesy, he/she should raise the matter initially with the appropriate Line Manager and ultimately with the appropriate Director, if they do not feel able to discuss it directly with the Member concerned. In these circumstances the appropriate Line Manager/Director will take appropriate action either by approaching the Member concerned or that Member's Political Group Leader. This action does not preclude an Officer from making a complaint to the Standards Commission for Scotland.
- 2.8 "Proper Officers" are appointed in terms of various statutes e.g. the Chief Executive, as Head of Paid Service; the Director Community and Customer Services as Monitoring Officer; and Head of Finance as S95 Officer. Officers so appointed are empowered to take such action as is implicit in their role. The roles of these Proper Officers must be understood and respected by all Members. A full list of Proper Officers is contained in the Council's Scheme of Delegation to Officers.

### **3. OFFICER SUPPORT / ADVICE TO MEMBERS AND POLITICAL GROUPS**

- 3.1 It must be recognised that, in discharging their duties and responsibilities, Officers serve the Council as a whole and not any Political Group, combination of Groups, or any individual Member of the Council.
- 3.2 The existence of Political Groups is recognised by legislation. It is common practice for Political Groups to consider matters of Council business. Officer advice and information may legitimately be sought by Political Groups to enable them to consider the options for dealing with Council business. It is important that such assistance is available to all Political Groups and individual Members equally. Attendance at meetings of Political Groups is voluntary for Officers and must be authorised by the Chief Executive or in his absence the Proper Officer.
- 3.3 Officers will respect the confidentiality of any Political Group discussion at which they are present or with individual Members and will not relate the content of any discussion to another Political Group or Member. However, Members should be aware that this does not prevent Officers from disclosing such information to other Officers of the Council so far as is necessary to perform their duties.
- 3.4 Officer assistance must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party political business. Internal party debates should take place in the absence of Officers.

- 3.5 Officers must give their advice impartially and, where advice is sought from more than one Political Group, they must offer the same advice to each Group. Officers when asked questions at a Political Group meeting are not then required to inform other Political Groups of the questions and answers given unless asked the same questions.
- 3.6 Council decisions can only be made by the Council or its Committees and not by Political Groups. Advice given by Officers at Political Group meetings is not a substitute for providing information and advice to the Council or its Committees when the matter is being debated.
- 3.7 Both Members and Officers must be mindful of the presence of persons who are not Members of the Council at Political Group meetings and should limit any advice and information in such circumstances where necessary.

#### **4. MEMBERS' RIGHTS OF ACCESS TO INFORMATION / FREEDOM OF INFORMATION**

- 4.1 Functions under Statute are conferred on the Council as a Corporate Body. It follows that all documents within the Council's control belong to the Council. With some exceptions no documents belong to an Officer or Member. Council documents are also subject to the Data Protection Act and any other relevant legislation.
- 4.2 Council proceedings and printed material are generally open to the public. There may be times, however, when Members will be required to treat discussions, documents or other information relating to the Council as confidential and must not disclose or use this information for personal advantage or to the disadvantage or discredit of the Council.
- 4.3 The Proper Officer in terms of S50B of the Local Government (Scotland) Act 1973 is not required to disclose information in certain categories. This, however, only applies to exempt information and the Council or a Committee can overrule the Proper Officer and instruct the Proper Officer to make the exempt information available and not subject to exemption.
- 4.4 Members have a statutory right in terms of the Local Government (Scotland) Act 1973 to inspect any Council document which relates to the business to be transacted at a meeting of the Council or its Committees. This right applies irrespective of whether the Member is a member of the Committee concerned and extends not only to reports which are submitted to the meeting but also to relevant background papers.

- 4.5 Members do not have an automatic right to access files if their interest stems from something other than pursuing rights as a member of a Committee or as a ward Member. An Officer, in considering whether a Member has a right to information requested, is entitled to know the reason(s) for it and, in the absence of any reason(s), is entitled to refuse. This question must initially be determined by the Director / Chief Officer of the Service which holds the documentation / information, seeking advice from the Proper Officer as required. A response should be provided within 5 working days, but if this is not possible, the delay must be explained and a clear indication should be given when a substantive response will be provided.
- 4.6 The Data Protection (Processing of Sensitive Personal Data) (Elected Members) Order 2002 provides that sensitive personal data may be used by Members without specific consent being obtained in advance by a constituent and the processing of the data is necessary for the help to be provided. When the constituent has put the request in writing or has given the Member written consent, this makes the processing of the data more transparent and defensible for all concerned. Members should be aware that there will be occasions on which, even with the written consent of their constituent, they will not be entitled to information which the Council obtains in confidence from external agencies. In these cases the provisions of paragraph 4.5 above will apply.
- 4.7 The Freedom of Information (Scotland) Act 2002 brings additional rights and responsibilities regarding disclosure of information. Annex 4 provides detailed guidelines on responsibilities under the Act.
- 4.8 The Council's Corporate Performance Management (CPM) Software (Covalent) will hold performance management information. Members should restrict enquiries to high level strategic performance management information linked to the Single Outcome Agreement, Business Plans and Performance Plans and direct these enquiries to the identified Senior Accountable Manager.

## **5. INVOLVEMENT OF MEMBERS IN OUTSIDE BODIES**

- 5.1 Members may be appointed or nominated by the Council as a member of another body or organisation. In such cases the Member is bound by the rules of conduct of the outside body and responsibility for any actions taken by the Member will be to the body in question. Members must also continue to observe the rules of the Councillors' Code of Conduct in carrying out the duties of that body.
- 5.2 Where a Member has an interest as a member of an outside body, he/she may be required to declare an interest when a matter arises concerning the body and may be unable to take part in discussion/voting on that matter. The Standards Commission for Scotland has granted dispensations in certain circumstances to allow Members to participate in the discussion/vote on matters relating to certain outside bodies. Members should seek guidance on this if required from the Proper Officer. This does not preclude Members from approaching the Standards Commission themselves to apply for a dispensation.

- 5.3 Members nominated in the capacity of Director of a company must have regard to the interests of that company. This may lead to conflict of interest between that of the Council and the company (e.g. provision of confidential / information). In the case of a potential conflict, the Member should seek advice from the Proper Officer.

## **6. INVOLVEMENT OF MEMBERS IN LOCAL ISSUES**

- 6.1 Whenever a public meeting is organised by the Council to consider a local issue of major significance, all Members representing the ward or wards affected should be invited to attend the meeting. If a specific Member(s) has been involved in arranging the meeting it is appropriate to acknowledge their input. Every effort should be made to ensure that the meeting time and venue is arranged so that all parties can attend. Similarly ward Members should be notified, at the outset, of any major consultation exercise on a local issue within their ward. Where a meeting is being arranged by a Member(s) on a ward issue, they can decide not to invite other ward Members. Officers should attend such meetings. If an Officer attends the meeting and a Member, who was not present, requests information about what was discussed, the Officer should provide this information.
- 6.2 Members have a right to be consulted by officers on specific matters of interest as a local councillor e.g. whenever a meeting is organised by the Council to consider local issues, all councillors representing the wards affected must be invited to attend. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue the local councillors must be notified at the outset. Members must be kept informed in a timely manner on issues of compliance and performance reporting.
- 6.3 Members must be consulted on all significant new projects and initiatives in their ward at the planning stage in order that their views may be taken into account; Councillors must be advised of any work being undertaken by the Council in their ward and where it is known by any other statutory undertaker, e.g. Scottish Water, which is likely to inconvenience the public for any significant length of time.
- 6.4 Members must be consulted on any other issues which are likely to be of significant interest to the local community in their ward.
- 6.5 When a meeting dealing with a ward issue is being arranged by an external body/group or person they should be advised about the Council's guidance for Officers arranging meetings. They should be encouraged to follow this guidance. When such a meeting is arranged and all relevant ward Members are not invited Officers should request an explanation before agreeing to attend. Where there is no adequate reason for the differing treatment of Members or it is 'political' (i.e. only Members from a specific political party/parties are invited to attend), an equitable parity for the ward Members is not being provided. In such instances Officers should not attend the meeting, unless there is an over-riding justification to attend, and they should communicate this to all relevant Members in advance.

**7. MEMBERS' INVOLVEMENT IN WORKING GROUPS/PARTNERSHIP WORKING/OFFICER WORKING GROUPS**

- 7.1 Member Officer working groups may be set up for a particular purpose by the Council or a Committee to allow Members to work with relevant Officers to provide an additional opportunity for debate as well as informal discussions. The Chairman of a Member Officer working group shall regulate the conduct of business at meetings and shall ensure that all Members receive a fair hearing. Member Officer working groups have no decision making powers and the Standing Orders of the Council do not apply to these groups.
- 7.2 There will be occasions, however, when a constituent will request the assistance and presence of their local Member(s) at a meeting with Officers of the Council. This is part of the advocacy role of a Member(s). On such occasions, Members and Officers should be particularly aware of their respective roles and responsibilities under this Protocol. All Members in a multi-member ward must be kept up to date on issues and concerns arising in their ward. There may, however, be occasions when a constituent only gives consent for information to be shared with one particular Member.
- 7.3 The role of Members is to determine policy and to participate in decisions on matters placed before them, not to engage in direct operational management of the Council's Services.
- 7.4 Internal Officer working groups are established to progress the decisions taken by Members and have a role to research and prepare reports to inform Member decision making. Inter-agency Officer Working groups have a similar function.
- 7.5 Partnership working, involving both Members and Officers, provides for a complex set of structures and accountabilities. Clear boundaries as well as governance and reporting arrangements are required. Members, Officers, Committees, Partner Organisations and Steering Groups must fully understand their respective roles and accountabilities. Officers attending meetings with Partner Organisations must be clear about their authority, delegations, governance and reporting arrangements and seek guidance from the Proper Officer if in any doubt.

**8. MEDIA PROTOCOL**

- 8.1 Council publicity is strictly governed by Section 2 of the Local Government Act 1986, which states: "A local authority shall not publish any material which, in whole or in part, appears to be designed to affect public support for a political party."
- 8.2 Council officers are bound by their contract of employment to be non-political in performing their duties and in the work that they produce in accordance with the Act. News releases of a political nature cannot therefore be issued by Council officers. In addition, Paragraph 20 of the Code of Recommended Practice on Local Authority Publicity 1988 defines the purpose of local authority publicity as: "To increase public awareness of the services provided by the authority and the

functions it performs; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve accountability.”

- 8.3 Council officers are bound by Clauses 39 to 41 of the Code of Recommended Practice, which specifically relate to publicity for individual elected members. These clauses govern how media relations must be managed. Local authorities are obliged to have regard to the code in coming to any decisions on publicity. The key message contained within the code is that publicity is a corporate function and so should reflect the Council’s views at all times. Therefore, it is generally inappropriate to publicise individual elected members, unless acting on behalf of the Council as a whole.
- 8.4 Dumfries and Galloway Council has agreed that the Code of Recommended Practice on Local Authority Publicity should be delivered by Members and Officers of the Council as set out in Annex 5.
- 8.5 The resources of the Communications Unit are available to all Members in the following ways:

#### **Political Groups**

- Access to the media contact information maintained by the Communications Unit is available on request.

#### **Individual Members**

- Professional advice on media issues relating to Council business.
  - Advice and assistance or Members can ask the Communications Unit to field media calls if they become the focus of intrusive media attention arising from their role as a Member.
  - Help to explain a Council activity in a Member’s ward that becomes the focus of media attention.
  - The Unit will distribute a non-political release for a Member to the media outlets that cover their ward. They must be written by the Member, relate directly to Council business and their involvement as a member of the Council and not of any other body or organisation. They should also be clearly identified as a communication from an individual Member.
- 8.6 The aims of the Council’s Communications Unit are to improve external communications between the Council and residents of Dumfries and Galloway Council and internal communications within the Council. The unit acts on behalf of the Corporate Council and not Political Groups.

### **9. COMMUNICATIONS AND SUPPORT SERVICES**

- 9.1 Officers should ensure that enquiries received via the Elected Member Enquiry System or directly on procedural issues are responded to within 3 working days and, if a substantive response requiring detailed research is required, then within 15 working days. Individual constituent issues will not be copied to fellow ward Members unless the original request has been copied to fellow ward members. If, however, a ward issue of general interest to all Members arises, a senior

Officer, within the department dealing with the request will assess the response, anonymise if required and cascade to all ward Members.

- 9.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer and include both the name and title of the Officer. In some circumstances it will be appropriate for a letter to appear in the name of a Member e.g. Leader or Depute Leader or Chairman of a Committee. Letters which, for example, create legal obligations or give instructions on behalf of the Council must never be sent out in the name of a Member.
- 9.3 Support services to Members and Political Groups can only be lawfully provided to assist them in discharging their role as Members of the Council. Such support services must therefore only be used for Council business and not in connection with party political campaigning activity or for private purposes. Members must not use or seek to use Council resources including Officer time, office facilities and IT equipment for the production or issue of any material that may contravene these requirements.

## **10. SOCIAL MEDIA POLICY**

- 10.1 Social Media is the term normally given to web-based tools (called Web 2.0) which allow users to interact with each other in some way. This could be by sharing information, opinions, knowledge and interests online. Social media involves the building of online communities or networks. This includes blogs, message boards, social networking websites such as Facebook, Twitter, MySpace; content sharing websites such as flickr, YouTube and many other similar online channels. The way such information is consumed is also changing with the increased use of mobile devices such as Blackberries, iPhones and similar hardware.
- 10.2 The policy outlined at Annex 6 provides information about what to consider before using social media to get the best out of the tools available. The rules help Officers and elected Members to maintain a safe professional environment, protecting themselves, the organisation and the people who use the services.

## **11. INTERPRETATION OF AND AMENDMENTS TO THE SCHEME**

- 11.1 This Protocol is in addition to and subsidiary to the Councillors' Code of Conduct and the Code of Conduct for Local Government Employees in Dumfries and Galloway.
- 11.2 An alleged breach of the Councillors' Code of Conduct is a matter for the Standards Commission for Scotland to investigate.
- 11.3 An alleged breach of the Code of Conduct for Local Government Employees in Dumfries and Galloway may give rise to disciplinary action.
- 11.4 This Protocol is a living document and may be subject to changes to reflect developments and changing circumstances. These changes will be reported to the Council as required.

- 11.5 All matters of interpretation of this Protocol will be determined by the Proper Officer. The Proper Officer is authorised to supply any omission in or necessary amendment to or correct any error arising in this Protocol which is of an administrative nature, which will be reported to the Council as necessary.