

## **GUIDANCE FOR THE PROFESSIONAL RELATIONSHIP BETWEEN COUNCILLORS AND COUNCIL EMPLOYEES**

### **1. INTRODUCTION**

- 1.1 The Council has adopted a number of policies and procedures which relate to the conduct of Council employees to each other and provide ways in which complaints about inappropriate behaviour raised by management or colleagues or members of the public can be raised, considered and dealt with.
- 1.2 These various codes and procedures are part of the relationship between individual employees and the Council as their employer and relate to conduct between employees as colleagues and as managers.
- 1.3 The Council recognises that the professional relationship between Councillors and employees is a separate relationship. Individual Councillors are not the employer (but can be representatives of the employer) nor are they managers nor are they employees.
- 1.4 It is important that there is shared mutual understanding of the responsibilities and expectations of this relationship and to this end Councillors and representatives of employees have adopted this Guidance.

### **2. PRINCIPLES OF THE CODE**

- 2.1 The Council believes that Councillors and employees are entitled to dignity, respect and equality of treatment from each other within the context of their individual responsibilities.
- 2.2 The various sets of National Conditions of Employment for local authority employees do not contain specific reference to the expectations of the professional relationship between Councillors and employees.
- 2.3 A Member must:
  - (a) promote equality by not discriminating unlawfully against any person,
  - (b) treat others with respect; and

- (c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

2.3.1 The Council's Constitution contains officer employment procedure rules which set out strict rules that Members should ensure that they observe in dealing with the appointment and dismissal of staff.

2.4 The National Code of Conduct for Staff contains the following –

2.4.1 "Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the authority should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law".

2.4.2 "Employees serve the Authority as a whole. It follows 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".

2.4.3 "Employees are responsible to the authority through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the authority's work. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided".

2.5.1 The Council expressly recognises that harassment including coercion or intimidation, discrimination by less favourable treatment, and victimisation of a complainant can occur between a Councillor and an employee. Whilst Councillors by reason of their position may be seen as prospective perpetrators employees can also behave inappropriately in these ways towards Councillors.

2.5.2 The role of a Councillor includes the ability to appropriately challenge employees on proposals, advice etc. which is not affected by this Protocol, but the Council has adopted a rule in its Constitution to ensure that criticism of employees is properly handled within the employment

framework and the Council also recognises that Councillors should not adopt inappropriate ways of challenging.

- 2.6.1 It may be that on occasions employees or Councillors consider that they have not been treated in accordance with the principles outlined in this Protocol
- 2.6.2 The Council believes that wherever possible such issues should be dealt with informally using skilled mediation if appropriate with the aim of resolution if possible by agreement, with encouragement of any necessary changes in behaviour and of a mutually acceptable proper relationship.
- 2.7.1 To this end it is intended that any complaints concerning inappropriate behaviour should be raised as soon as possible after the conduct to which they refer so that problems can be resolved and not allowed to fester.
- 2.7.2 The Council however recognises that employees do have particular statutory employment rights which may allow complaints to be made within a longer timescale including by recourse to external bodies. The Council as employer may also have a similar ability to pursue delayed complaints concerning employees.

### **3. RESOLVING DIFFERENCES**

- 3.1 With the intention of seeking informal resolution as emphasised in 2.6.2 and 2.7.1 both Councillors and employees are encouraged wherever possible to discuss the issue of concern directly with the individual concerned
- 3.2 It is understood that individuals may often feel that this is not possible or that it may be tried but not solve the problem in which case either an informal or more formal process should be used as set out below.

### **4. EMPLOYEE COMPLAINTS**

- 4.1 An employee concerned about the conduct of a Councillor should raise the issue with the appropriate Chief Officer or with a Human Resources Officer equipped to deal with welfare issues or with the Managing Director.

- 4.2 That person shall then discuss with the employee possible ways of seeking to resolve the issue. Such options could include -
- discussion with the Chief Officer or Managing Director if not the person initially approached.
  - support for the employee in making a direct approach to the Councillor e.g. a meeting between the employee and the Councillor assisted by the person approached.
  - an informal approach to the Secretary or Whip as appropriate of the relevant political group.
  - the involvement of skilled mediation outside the Council.

These examples are not intended to be exhaustive.

- 4.3 Any direct approach to the Councillor concerned or the Secretary or Whip of the political group shall only be made with the agreement of the employee.

- 4.3.1 If it is agreed that an approach should be made to the Secretary or Whip of the political group this shall not be done without either previously, or at the time, also directly informing the Councillor concerned of the circumstances and that such an approach is being made.

- 4.4 Any informal option chosen to seek to resolve the issue shall be undertaken without delay and the employee shall have the right at any time to choose to invoke the formal procedure as follows. If the employee is of the opinion that the action of the Councillor has breached the terms of the main Code of Conduct, they have the right to make a formal written complaint to the Council's Monitoring Officer.

- 4.5 If the complaint does not fall within any of the provisions of the Code, then the matter will be dealt with should the employee wish to adopt a more formal procedure along the following lines

- 4.6 The formal procedure which may be chosen initially, or at any time during the informal process or at the conclusion of the informal process will be –

- 4.7 The employee recording in writing to the Chief Officer (or the Managing Director if the employee considers that the Chief Officer is involved in the complaint) the details of the issue.

- 4.7.1 The Chief Officer or Managing Director communicating the contents of the complaint in writing to both the Councillor concerned and the Chair of the Standards Committee.

- 4.7.2 The Chair of the Standards Committee shall then within one month call a meeting of the Standards Committee to consider the complaint and the response to it.
- 4.7.3 The employee's Chief Officer (unless also involved in the complaint or any other complaint arising out of the same or connected incident) shall be present at the hearing.
- 4.7.4 The Managing Director may also attend and the Standards Committee may invite any other appropriate officer to be present to provide advice.
- 4.7.5 The employee shall be entitled to present the complaint including, if wished, through a representative or with support.
- 4.7.6 The Councillor concerned shall have the opportunity to respond to the complaint including, if wished, through a representative or with support.
- 4.7.7 Both the employee and the Councillor and their representatives/friends shall be entitled to be present during the presentation of the complaint and the response to it.
- 4.7.8 Either party shall be entitled to nominate any witnesses and they shall be interviewed with the employee and Councillor or their representatives/friends having the right to be present during such interviews.
- 4.7.9 A note shall be made of the hearing which shall be made available to the employee and the Councillor.
- 4.7.10 The Standards Committee may make any other detailed procedural arrangements.
- 4.7.11 After conclusion of the hearing the Standards Committee may seek advice from the Managing Director, Chief Officer or other appropriate officer and shall then determine their view of the complaint which shall be communicated in writing to both parties within 3 weeks of the hearing.
- 4.7.12 The Committee may in determining their view also consider possible sanctions or other action or may separately consider these at a further hearing to which it may invite the Councillor and employee and representatives if it so wishes in order to hear representations as to

possible sanctions from or on behalf of the Councillor and may also consult at that time with the Secretary of the relevant political group.

- 4.7.13 The Council recognises that the conduct of Members is a matter of concern for political groups but also that the Council owes an obligation to the employee particularly in relation to statutory requirements, code of conduct issues, or action which breaches employment contracts and the sanctions and other action to be considered by the Standards Committee should include –
- circulation of information to other Councillors identifying the nature of the complaint and the name of the Councillor.
  - guidelines for the future relationship between the Councillor and employee.
  - appropriate assistance from outside the Council.

## 5. **COUNCILLOR'S COMPLAINT**

- 5.1 In the event of a Councillor complaint concerning an employee the following process shall apply -
- 5.1.1 The Councillor shall raise the issue with the Chief Officer (or the Managing Director) and may also inform the Secretary or Whip of the appropriate political group if wished.
- 5.1.2 Subject to 5.1.3, the informal process as outlined at 4.1 to 4.4 shall be followed but if at any stage during this it appears to the Chief Officer that the Council's disciplinary procedure for employees should be implemented, the complaint shall be dealt with within that procedure with the Chief Officer taking the role of the manager.
- 5.1.3 If the Councillor chooses at any stage to make a formal complaint this must then be dealt with within the Council's disciplinary procedure for employees a copy of which can be found on the Intranet