

PROTOCOL FOR RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS OF DUDLEY MBC

REPORT OF THE MONITORING OFFICER

1.0 PURPOSE

- 1.1 To consider a draft Protocol for Relationships between Members and Officers of the Council.

2.0 BACKGROUND

- 2.1 At its meeting on the 14th December 2004 the Standards Committee considered my report and draft Protocol for Relationships between Members and Officers of the Council.
- 2.2 As a result of the Committee's initial deliberations amendments were made to paragraphs 29 and 109 and these are highlighted in bold print in the draft attached at Appendix 1.
- 2.3 The draft was considered by each of the Council's Select Committees at their meetings in January 2005. Three of the Select Committees (Education and Lifelong Learning, Good Health and Community Safety) endorsed the draft without alteration but the remaining three Select Committees made the following comments.
- 2.4 **Select Committee on the Environment.**
- 2.4.1 Members commented that there was a general lack of communication and information that was available to members. A particular incident was referred to whereby the telephone numbers for the Directorate of Housing had changed and members had not been made aware of this. Another incident that was highlighted involved the employment of the new Town Centre Managers where ward members would have found information useful earlier rather than later. It was felt that information about particular issues only came to light when reading newspaper articles. It was suggested that various ways of communicating information should be used, such as e-mail, intranet and internet.
- 2.5 Comment
- 2.5.1 Communication is an age-old problem for all large organisations. Paragraph 96 of the draft recognises the importance of keeping local members informed and this will be reinforced once the Code has been approved by the full Council.

2.6 **Select Committee on Culture and Recreation**

- 2.6.1 Members commented that they have experienced difficulties of officers not understanding that members may have access to documents relating to cases in which they are involved. They express the view that there is a growing tendency to hide behind the Data Protection Act and that officers need to understand the rights of members to view documents.
- 2.6.2 One member also expressed the view that too many committee reports are still considered in private session and felt that there would be occasions when it would be impossible not to make criticism in public of an officer's actions despite paragraph 136 of the Code.
- 2.6.3 Another member quoted examples of officers being willing to give members information over the telephone but without validating to whom they were talking. The Committee was keen that a procedure of calling a member back or using a personal code should be introduced.

2.7 Comment

- 2.7.1 At its meeting in December 2004 the Standards Committee debated access to information by members, particularly when they were acting on behalf of a constituent. It was made clear at that meeting and subsequently at a training event for members in February 2005 that if a member requires access to such personal data under the Data Protection Act, they must have the written authority of their constituent.
- 2.7.2 Very few reports are taken in private session and usually the reasons for treating the item as being "exempt" are: -
- the inclusion of personal data e.g. details of an employee or housing tenant
 - commercial sensitivity e.g. the terms of a contract
 - protecting the legal interest of the Council e.g. where confidential legal advice has been given.

Under the Freedom of Information Act a number of categories of confidential information still needs to satisfy the public interest test i.e. it is not in the public interest to disclose it, but with the passage of time information will lose its confidentiality and will be disclosable at a later point.

- 2.7.3 There is a time and place for criticism of officers and as paragraph 136 of the draft makes clear, any concerns by a member should be pursued privately with the officer concerned or their senior.
- 2.7.4 Providing information over the telephone can be fraught with difficulties if the officer does not know the member concerned. It is suggested, therefore, that we add the following to paragraph 112: -

"When the information is requested over the telephone, the officer concerned will only convey the information if they know the member requesting the

information and, if not, the officer will re-telephone the member in order to confirm the member's identity.

2.8 Select Committee on Economic Regeneration

- 2.8.1 The Committee was concerned about paragraph 100 regarding public meetings arranged by a ward member. The Committee felt that minor public meetings should take place without the need to inform the Chief Executive or Director and that this was now an added burden for them.
- 2.8.2 One member of the Committee expressed the view that officers should be allowed to attend ward or constituency political party meetings (paragraph 103) but this view was not shared by other members.
- 2.8.3 The Committee also looked at paragraph 123. Some members felt that this paragraph would benefit from re-wording to make it clear that members can copy other members into correspondence.

2.9 Comment

- 2.9.1 With regard to paragraph 100 the requirement to notify the Chief Executive or relevant Director of a public meeting is simply to ensure that the meeting may take place in Council owned premises and to make it possible for an officer to attend. If the public meeting is not to be held on Council premises and is not to be attended by any Council officer, there is no requirement to notify the Chief Executive or Director.
- 2.9.2 It is a longstanding convention that officers do not attend ward or constituency political party meetings.
- 2.9.3 In order to clarify paragraph 123 it is suggested that we insert "by the officer" after "copied" in line 2. If the member wishes to circulate the correspondence to another member, they will be free to do so.

2.10 Standards Committee

- 2.10.1 The draft Protocol was further considered by the Standards Committee at its meeting on the 4th April 2005 when it was recommended to the Cabinet and the Council that the draft be approved with the amendments to paragraph 112 and 123 highlighted in bold print in Appendix 1.

3.0 PROPOSAL

- 3.1 It is proposed that the Cabinet consider the draft Protocol for Relationships between Members and Officers of Dudley MBC in the light of the comments made by Select Committees and Standards Committee, and submit a recommendation to the Council.

4.0 **FINANCE**

4.1 There are no financial implications arising from this report.

5.0 **LAW**

5.1 Section 112 of the Local Government Act 1972 enables the Council to appoint staff to undertake its statutory functions.

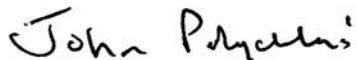
5.2 Section 111 of the 1972 Act permits the Council to do any thing which is calculated to facilitate or is conducive or incidental to the discharge of its functions.

6.0 **EQUAL OPPORTUNITIES**

6.1. The adoption of the draft protocol is entirely consistent with the Council's policies with regard to equal opportunities and diversity.

7.0 **RECOMMENDATION**

7.1 It is recommended that the Cabinet consider the draft Protocol for Relationships between Members and Officers of Dudley MBC in the light of the comments made by Select Committees and Standards Committee, and submit a recommendation to the Council.



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Monitoring Officer

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BACKGROUND PAPERS

1. Model draft Protocol produced by The Association of Council Secretaries and Solicitors.
2. Report to Corporate Board on the 12th October 2004.