

PROTOCOL ON MEMBER AND OFFICER RELATIONS

“Every Local Authority should have its own written statement or protocol governing relations between Members and Officers” (Third report of the Committee on Standards in Public Life, the Nolan Committee)

Introduction

- 7.1 The relationship between the Elected Members and the Officers of the Fire Authority has always been and continues to be one of the main organisational strengths. However, the Authority accepts it is required to have a formal protocol which covers the relationship between Elected Members and Officers. This protocol is prepared to meet those requirements but against a background of a good working partnership which is well established widely accepted and benefits everyone who serves or is employed in the Authority. It will provide a safeguard to help ensure that current good practice continues.
- 7.2 The Fire Authority recognises that a strong, constructive and trusting relationship between Members and Officers is essential to the effective and efficient working of the organisation. Members and Officers should work in partnership in developing the policies of the Authority and in ensuring the delivery of services to the people of Cheshire, Warrington and Halton.
- 7.3 This protocol takes into account the respective and different roles of Members and Officers and does not seek to change or influence these roles. The intention is to build on the good relationship which already exists.
- 7.4 It is accepted that from time to time issues do arise which need to be addressed from both sides. This protocol will be used as appropriate to help in addressing any such matters.
- 7.5 It is recognised that the Authority is a corporate entity but that in terms of its political structure there is an administration and opposition dimension which involves both Members and Officers operating in a politically sensitive climate. Officers have an obligation to serve the Authority as a corporate body.
- 7.6 This protocol forms a key part of the Authority’s approach to corporate governance and its commitment to uphold standards of conduct in public life. The Authority supports also the wider aims of protecting and enhancing the integrity and reputation of public services and the highest standards of personal conduct.

Operation of this protocol

- 7.7 This protocol will be applied having regard to the requirements of the Members’ Code of Conduct and the Officers’ Code of Conduct, as set out in the Authority’s Constitution, and relevant Authority policies,

procedures and processes. Members and Officers must at all times observe this protocol.

- 7.8 Where there is a conflict or discrepancy between this protocol and those codes and policies referred to in paragraph 7.25 above, then those codes and policies shall have precedence. Account will also be taken of any conventions in the case of conflict or discrepancy.
- 7.9 This protocol does not affect or interfere with any rights of or protection which a person may have in law.

Responsibility for the protocol

- 7.10 The Chief Fire Officer and Chief Executive is responsible for the operation of this protocol and will ensure that it is reviewed from time to time.
- 7.11 He or she will rule on the interpretation and / or the application of the protocol in matters of dispute and such rulings will be final. Where such a matter is relevant to or involves the Chief Fire Officer and Chief Executive then the Monitoring Officer shall be the appropriate Officer under this paragraph.
- 7.12 The Fire Authority is responsible for approving any amendments or additions to the protocol following consultation with Member and Officer representatives and the Governance and Constitution Committee where appropriate.

Member and Officer Roles

- 7.13 This protocol recognises that Members are elected and Officers are appointed to serve the people of the districts of Cheshire East, Cheshire West and Chester, Halton and Warrington and that their roles are distinct.
- 7.14 The Members are accountable to the electorate who determine the people they wish to represent them on various unitary authorities. These four Authorities then nominate Elected Members to sit on the Fire Authority.
- 7.15 Officers are accountable to the people of the districts of Cheshire East, Cheshire West and Chester, Warrington and Halton through the full Fire Authority.
- 7.16 Councillors are mainly responsible for:
- The political direction and leadership of the Authority.
 - The determination of policies, plans and strategies and deciding matters to give effect to or implement those policies, plans and strategies, particularly in service delivery terms.

- Performing the Authority's regulatory functions.
- Monitoring and reviewing, primarily through the Policy Committee and the Performance and Overview Committee functions, the Authority's performance in implementing its plans and strategies and in delivering its services.
- Participation in partnership working.
- Representing the Authority on national, regional and local bodies and organisations.
- Representing the views of their communities and individual constituents in respect of the work of the Fire Authority.

7.17 Members should not involve themselves in the day to day management of the Authority's services as the responsibility rests with the Chief Fire Officer and Chief Executive and Senior Managers and there are clearly defined lines of accountability to Members. However, applying this part of the protocol, it has to be recognised that Members do have specific responsibilities under the Authority's Performance and Overview Committee function as set out in paragraphs 7.54 to 7.58 of this document.

7.18 Under the Authority's Constitution some Members have additional responsibility at Member level, for example being Chair of a committee, panel, or as lead, or champion Member for a specific area of the Service. The holding of these offices will involve a different relationship with certain Officers in areas where the Member has a particular role and responsibility. Also, the relationships will be more complex and expectations will be different from other Members.

7.19 It is important that Members of the Authority:

- Respect the impartiality of Officers and do not undermine their role in carrying out their duties.
- Do not ask Officers to undertake work or to act in a way which seeks to support or benefit a particular political party or gives rise to the officer being criticised for operating in a party political manner.
- Do not ask Officers to exceed their authority where that authority is given to them in law, by the Authority or by their managers.

7.20 This protocol recognises the role of opposition groups in the Fire Authority acting individually or jointly, and that relationships will be again different and complex. Members in opposition have the same rights and obligations in their relationships with Officers and should be treated equally. Where opposition groups, individually or collectively, appoint their Members to perform shadow or spokesperson roles, then the requirement of paragraph 7.36 will apply.

- 7.21 It is however envisaged that all Members will work co operatively to ensure that the Fire Authority meets its statutory obligations and provides an effective and efficient Fire and Rescue Service to the people of Cheshire.
- 7.22 The primary role of Officers is to advise, inform and support all Members and to implement the lawfully agreed policies of the Fire Authority.
- 7.23 In performing this role, Officers will act professionally, impartially and with political neutrality. Whilst Officers will report a Member's view on an issue, the Officer should not be influenced or pressured to make comments or recommendations which are contrary to his or her professional judgement or views.
- 7.24 The Chief Fire Officer and Chief Executive, the Monitoring Officer and the Treasurer (Section 151 Officer) have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Fire Authority. Where an Officer is discharging his or her responsibilities under any statutory office, a Member or Members shall not:-
- Interfere with or obstruct the Officer in exercising those responsibilities.
 - Victimise any Officer who is discharging or has discharged his or her responsibilities of the statutory office.
- 7.25 Both Members and Officers will, regardless of their role, always act in accordance with the Core Values of the Fire Authority, which are attached to this Protocol.

Member/Officer Obligations and Expectations

- 7.26 Members will require and expect Officers:-
- To be committed to the Authority as a whole and not to any political group or individual.
 - To work in partnership with Members in an impartial and professional manner.
 - To understand and support the respective roles of Members and the associated workloads and pressures.
 - To implement decisions of the Fire Authority and its subordinate committees which are lawful, have been properly approved in accordance with the law and the Authority's Constitution and formally recorded.
 - To respond to enquiries and complaints in accordance with the Fire Authority's standards.

- To provide professional advice, which is not influenced by political views or preferences, and which does not comprise the political neutrality of Officers.
- To provide information as agreed on matters that can reasonably be considered appropriate and relevant to their needs, taking into account the Members' individual responsibilities and position and the requirements on Members' access to documents and information, subject to specific exclusions, e.g. personal interests and confidentiality.
- To be aware of and sensitive to the internal and external political environment.
- To act with honesty, respect, dignity and courtesy at all times.
- To provide support and learning and development opportunities for Members to help them in performing their various roles.
- To act with integrity and appropriate confidentiality.
- Not to raise issues of a personal nature outside agreed procedures.
- Not to use their relationship with Members to advance their personal interests or to influence decisions improperly.
- To comply at all times with the Officer Code of Conduct and such other policies or procedures approved by the Fire Authority.
- To support the role of Councillors with any policy or procedure agreed by the Fire Authority.
- Not to support Members in any role other than that of a Fire Authority Member and not to undertake any actions which are not compatible with this Protocol.

7.27 Officers can expect Councillors:-

- To act within the policies, practices, processes and conventions established by the Fire Authority.
- To work constructively in partnership with Officers, acknowledging their separate and distinct roles and responsibilities.
- To understand and support the respective roles and responsibilities of Officers and their associated workloads, pressures and reporting lines.
- To give political leadership and direction and to seek to further their agreed policies and objectives with the understanding that

Members have the right to take the final decision and issues based on advice.

- To treat them fairly and with respect, dignity and courtesy.
- To act with integrity, to give support and to recognise appropriate confidentiality.
- To recognise that Officers work to the instructions of their senior officers and not to individual Members.
- Not to subject them to intimidation, harassment or put them under pressure. Councillors will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between with Councillor and officer and the potential vulnerability of Officers, particularly at junior levels.
- Not to request them to exercise discretion which involves acting outside the Fire Authority's policies and procedures.
- Not to authorise, initiate or certify any financial transactions or enter into any contract, agreement or undertaking on behalf of the Fire Authority, or in their role as Member of the Fire Authority without proper and lawful authority.
- Not to use their position or relationship with Officers to advance their personal interest or those of others, or to influence decisions improperly.
- To comply at all times with the Members Code of Conduct, the law, the Constitution and such other Policies, Procedures, Protocols and Conventions agreed by the Fire Authority.

Behaviour Limitations

7.28 The different roles of Members and Officers require particular limitations upon behaviour. Both Members and Officers need to ensure that their working relationship is appropriate to their respective role and that they do not act in any way which would lead to their behaviour being questioned. It is not possible to provide a list of circumstances where behavioural issues might be of concern. The main examples below help to illustrate the point.

- A close personal relationship between a Member and an Officer can confuse their separate roles and influence the proper discharge of the Authority's functions, not least in creating a perception that a Councillor or Officer may be securing advantageous treatment.
- The need to maintain the separation of roles means that there are limits to those matters on which a Member may seek the advice

of an Officer, both in relation to personal matters and party political issues.

- Relationships with a particular individual or party group should not be such as to create public suspicion that an employee favours one Councillor or group above the others.

Political Groups

- 7.29 It is in the interests of the Authority to support to some degree the effective operation of all its political groups and not one particular group. The operation of Political Groups may, however, pose particular issues for officers in terms of their impartiality.
- 7.30 A political group may request the Chief Fire Officer and Chief Executive or a senior manager to prepare a written report on a matter or matters relating to the Authority for consideration by the Group.
- 7.31 An Officer report to a political group will be restricted to a statement of material facts and identification of options and the merits or otherwise of such options for the Authority. Such reports will not cover any political implications on the matter or any opinion. Such reports will not include any recommendations.
- 7.32 The release of such reports to other political groups shall be dealt with in accordance with any conventions in existence at the time.
- 7.33 A political group may request the Chief Fire Officer and Chief Executive or a senior manager to attend a meeting of the group to advise on particular matter relating to the Authority. The Chief Fire Officer and Chief Executive or senior manager may arrange for the attendance of the representative on his or her behalf, or may decline to attend or send a representative where he or she is of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.
- 7.34 Officer advice at a meeting of a political group will be restricted to a statement of material facts and identification of options and the merits or otherwise of such options for the Authority. The advice will not cover any political implications of any matter or any opinion.
- 7.35 All Officers will respect the confidentiality of any matter which they hear in the course of attending any political group meeting or in respect of any requests for advice and the giving of that advice.

Attendance of Officers at Performance and Overview Committee

- 7.36 It is accepted that in carrying out its role, the Performance and Overview Committee may require an Officer to attend to answer questions or to discuss issues. In requiring an Officer to attend, the Committee will consider the seniority of the Officer it would be appropriate to invite. There is a presumption against inviting Officers outside the senior

Officers range to attend in this capacity. Requests for Officer attendance shall also have regard to workloads of Officers.

- 7.37 Where an officer attends such a meeting his or her contributions should be confined to matters of fact and explanation. However, an Officer may be asked to explain and justify advice which he or she has given prior to a decision having been made, including decisions taken by him or her using their delegated powers.
- 7.38 Officers should not be drawn into discussions of a political nature which would be inconsistent with the political neutrality requirement, nor should any questioning of an officer be reasonably interpreted as constituting harassment.
- 7.39 In Performance and Overview proceedings the capability or competence of Officers must not be questioned. The distinction needs to be drawn between reviewing the policies, performance and decisions of the Authority and its services and the appraisal of officers' individual performance. The latter is not a function of the Performance and Overview Committee.
- 7.40 In applying this part of the Protocol, account will be taken of any guidance agreed by Performance and Overview Committee provided that guidance is consistent with the principles of this Protocol.

Breaches of the Protocol

- 7.41 Where a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Brigade Manager. Where the Officer concerned is a Brigade Manager, the matter should be raised with the Chief Fire Officer and Chief Executive. Where the employee concerned is the Chief Fire Officer and Chief Executive, the matter should be raised with the Monitoring Officer.
- 7.42 On the Member's side, where the relationship between Councillors and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate senior manager or Councillors. Officers will also have recourse to the Grievance Procedure or to the Authority's Monitoring Officer as appropriate, in certain circumstances. In the event of a Grievance or Complaint being upheld, the matter will be referred to the Chief Fire Officer who, having advised the Chair of the Authority and the other appropriate party spokespersons, will decide on the course of action to be taken, following consultation with the Governance and Constitution Committee if appropriate.
- 7.43 Breaches of the Protocol by a Member may result in a complaint to the Governance and Constitution Committee and in the case of Officers may lead to disciplinary action.