

(3) Code on Member/Employee Relationships

1. Scope

Councillors and officers are indispensable to one another and mutual respect between Councillors and officers is essential to good local government. Very good constructive and effective relationships exist between members and officers of the County Council. In order to strengthen these further the County Council has approved a Code on Member/Employee Relationships and a copy is attached.

Code on member/employee relationships

1. Introduction

1.1 Standards of Conduct for members and employees are contained in separate Codes of Conduct. Whilst these are detailed documents, they do not cover explicitly some of the issues arising from the close working relationships which are needed between the two if high value quality services are to be delivered and if the mutual confidence of members and employees is to be maintained. Any misunderstandings on these issues can, particularly at times of great uncertainty and change, give rise to unnecessary stresses and tensions which, if not resolved, can harm the effectiveness of these relationships. This Code cannot and does not seek to cover every eventuality, but it does seek to strengthen the good working relationships which already exist, to clarify possible areas of doubt and to offer advice as to how any difficulties which might arise can best be resolved properly and speedily without recourse, if possible, to the Council's more formalised procedures. Advice on the interpretation of the Code will be given by the Assistant Chief Executive.

1.2 Much of this Code primarily concerns the relationship between members and Chief Officers and other senior managers, but the same principles apply to all employees.

1.3 Specific issues will be added to this Code by way of annexes if the need should arise. At present there are three such annexes – Annex A covers the detailed process of political activity between employees and Party Groups, Annex B deals with press releases and County Council publicity and Annex C sets out the arrangements for the operation of the Shadow Cabinet.

2. Roles and responsibilities

Members

2.1 The role of the Councillor is defined by the Local Government Act 1972 and the Local and Housing Act 1989. In law all Councillors are equal and have the responsibilities of trustees.

2.2 All Councillors are required by law to:

- a) be guided by the Code of Conduct that their authority is required to adopt;
- b) comply with the Council's Standing Orders and Financial Guidelines;
- c) ensure that any facilities provided by the Council for members' use in undertaking their duties are used strictly for those duties and for no other purpose; and
- d) comply with all relevant statutory provisions.

Note: It is the responsibility of members themselves to ensure that they have proper advice. If members are ever in any doubt in terms of the law, any Council Code, Standing Orders, general propriety, conflicts of interest etc, then the Assistant Chief Executive should be consulted. Similarly the Chief Finance Officer should be consulted in respect of financial advice.

2.3 The County Council has appointed a Leader of the Council who is Chair of the Cabinet.

2.4 The County Council has also agreed that the principles of the Anti-Fraud and Corruption Policy should apply to members.

Committee Chairs

2.5 The role of a Committee Chair is only legally recognised for procedural purposes (e.g. in conducting meetings and exercising a casting vote). In practice, Chairs are recognised as the 'lead member' on the areas and issues within the terms of reference of the Committee concerned, undertaking the following roles:

- a) presenting reports at Council and responding to questions (as defined in Standing Orders);
- b) responding to the press/media and making public statements on behalf of the Council; and
- c) liaising closely with the relevant Chief Officer(s).

Leader of the Council and Members of the Cabinet

2.6 The Leader of the Council, in addition to being Chair of the Cabinet, may, as set out in Standing Orders, ask other members of the Cabinet to exercise functions on his/her behalf. Members of the Cabinet will liaise closely with the relevant Chief Officer(s) in relation to their portfolios, or when acting on the Leader's behalf, and will respond to the press/media and make public statements on behalf of the Council in relation to their portfolios.

[This Constitution makes provision for individual members of the Cabinet to make decisions. In making decisions they will be required to have regard to advice from relevant Chief Officers and to following certain guidelines.]

Shadow Cabinet

2.7 The Shadow Cabinet is not part of the formal decision-making process but is an informal body made up of opposition group spokespersons on each of the service areas identified for the Cabinet. If the administration consists of one party, with the remaining parties forming the opposition, then a Shadow Cabinet may not exist but arrangements for briefing opposition groups would be made similar to those set down for the Shadow Cabinet. The arrangements agreed for the operation of the Shadow Cabinet are set out in Annex C.

Standards Committee

2.8 The County Council has appointed a Standards Committee. Its terms of reference are set out in Article 9 of the Constitution.

Employees

2.9 Employees are employed by, and serve, the whole Council. They advise the Council and its Committees, and are responsible for ensuring that the decisions of the Council, either directly or through its Committees or Sub-Committees or employees themselves where decision-making has been formally delegated to them, are effectively implemented. All are legally required to be politically neutral. For some employees this is enforced through the political restrictions of the Local Government and Housing Act 1989. All are required to abide by the County Council's Anti-Fraud and Corruption Strategy and by the Council's Code of Conduct for Employees. The latter includes sections relating to:

- (a) standards of official conduct;
- (b) rules concerning disclosure of information and confidentiality;
- (c) political neutrality;
- (d) rules governing relationships with Councillors, local community and contractors;
- (e) appointments and other employment matters;
- (f) appointments following retirement, resignation or lawful termination of employment;
- (g) outside commitments and personal business interests;
- (h) equality issues;

- (i) separation of roles during tendering;
- (j) corruption, hospitality and gifts;
- (k) use of financial resources; and
- (l) sponsorship.

2.10 Employees are responsible to their line manager and ultimately their Chief Officer.

Chief Officers

2.11 Chief Officers have professional responsibilities and accountabilities to the Chief Executive who has responsibilities for the proper management of the Authority's employees. Some Chief Officers have specific statutory responsibilities as statutory office holders as well, such as the Assistant Chief Executive as the Monitoring Officer and the Chief Finance Officer as the Section 151 Financial Officer.

2.12 The Chief Executive, other Chief Officers, and senior employees working to them, will inevitably need to work closely with members of the Cabinet if there is to be effective policy development and executive decision-making. This relationship has to function without compromising the ultimate responsibilities of employees to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that employees can legitimately provide.

3. Information for members

3.1 It is important for Chief Officers and employees to keep members informed, both about the major issues concerning the County Council and, more specifically, about issues and events affecting the areas which they represent. Local members should be informed about proposals which affect their electoral division whether this be a declaration of a surplus property, a new traffic management scheme or a local planning application. Local members should also be invited to attend the opening of a new County Council building or road scheme or other similar ceremonies within their electoral division.

3.2 Where an issue is to be discussed by the Cabinet or a Committee on which the relevant member does not serve, by convention, in consultation with the Chair, a local member, or a member with a known special interest who wishes to do so, should be invited to attend the Cabinet or Committee for consideration of the item and to speak on it if they wish to do so.

3.3 Members may request copies of any agendas of the Cabinet and Committees and Sub-Committees of which they are not members. Members' rights to information are subject to legal rules and, if a member has a legitimate interest in a matter and is able to demonstrate a "need to know", in their role as

a County Councillor, employees should provide the relevant information, including confidential information, to them.

3.4 When the Cabinet meets as a decision making body, its papers are open to the public in the same way as other committee papers subject to the provisions of the Local Government (Access to Information) Act 1985. When the Cabinet meets in private to begin to discuss and formulate a policy, however, it may well wish to keep reports made to it and the notes of its deliberations confidential. Any member may seek copies of papers submitted to the Cabinet when meeting as a decision-making body or the minutes of such meetings on a "need to know" basis. The general approach is that it is reasonable for any member to seek and to be given confidential or exempt/confidential reports of such meetings. However, there may occasionally be exceptional circumstances where the Monitoring Officer will need to restrict reports to those members who can clearly demonstrate the need to have the information contained in the report. If the arrangements are to operate sensibly, members will need to comply with the restrictions about passing on the information described in paragraph 3.5 below.

3.5 Both the Code of Conduct and Standing Orders restrict the disclosure of information by members which they have gained as county councillors when the information is exempt/confidential. Such exempt/confidential information should not therefore be made available by the member concerned to the public. Nor should it be passed on to another county councillor who cannot demonstrate a similar "need to know" when the Monitoring Officer has restricted circulation of the report. The long-standing approach to openness adopted by the County Council will be maintained in the modernisation arrangements.

3.6 If members are not receiving, or are having difficulty in obtaining, information which they feel they need or to which they are entitled in order to carry out their duties as a county councillor they should contact the Assistant Chief Executive, just as employees will seek guidance from him/her.

3.7 The Assistant Chief Executive will circulate to all members the minutes of the Cabinet when meeting as a decision-making body. Departments will undertake to issue bulletins about their services. Efforts have been made and will continue to be made to update the County Council's website with more current information.

4. Respect and courtesy

4.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between members and employees. This, too, plays a very important part in the Council's reputation and how it is seen in public. It is very important that both members and employees remember their obligations to enhance the Council's reputation and to do what they can to avoid criticism of members or employees in public places.

4.2 If an employee is in breach of this requirement some form of disciplinary action will result. If a member is in breach, then the leader of their political group within the County Council will treat the matter as extremely serious and, if appropriate, the Monitoring Officer will report to the Standards Committee.

5. Undue pressure

5.1 In their dealings with Chief Officers and employees (especially junior employees) members need to be aware that it is easy for employees to be overawed and feel at a disadvantage. Such feelings can be intensified where members hold official and/or political office.

5.2 A member should not apply undue pressure on an employee, either to do anything that he/she is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.

5.3 Similarly, an employee must neither seek to use undue influence on an individual member to make a decision in their favour nor raise personal matters to do with their job nor make claims or allegations about other employees. The County Council has formal procedures for consultation, grievance and discipline.

5.4 Reports to committee should be written by the Chief Officer or another employee authorised by him or her. It is likely that a sensitive report or sensitive issues would be discussed at one of the regular informal meetings held by the Cabinet with the Corporate Management Team, or the Lead Officer with a Chair of a Scrutiny Committee. The Cabinet member and/or the Chair of the Scrutiny Committee may make suggestions to the Chief Officer/Lead Officer respectively as to the contents of the report. However, the report is the employee's and any amendments can only be made by the Chief Officer/Lead Officer who will consult and inform the Monitoring Officer as necessary. Where a Panel, Sub-Committee or Committee, reports upwards the report is settled by the Assistant Chief Executive, after consultation with the Chair.

6. Familiarity

6.1 Without detriment to the need for effective working relationships, particularly between the Cabinet and Chief Officers, close personal familiarity between individual members and employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information, or information which should not properly be passed between them, e.g. personal details.

6.2 Such familiarity could also cause embarrassment to other members and/or other employees and even give rise to suspicions of favouritism.

7. Redress

7.1 If a member considers that they have not been treated with proper respect or courtesy, they may raise it with the employee's line manager or Chief Officer without delay if they fail to resolve it through direct discussion. A member may raise the issue with the Chief Executive if the issue still remains unresolved, when appropriate disciplinary action may be taken against an employee.

7.2 If an employee feels the same way about a member, they should raise the matter with their line manager or Chief Officer as appropriate without delay – especially if they do not feel able to discuss it with the member concerned. In such circumstances the Chief Officer will take such action as is appropriate, by approaching either the individual member and/or Party Group Leader. The Chief Officer will inform the Chief Executive and the Monitoring Officer if the Party Group Leader becomes involved, or in any other case where that is appropriate and will approach the Monitoring Officer if it seems to be an issue for the Standards Committee to consider.

8. Political activity

8.1 Senior employees, except those specially exempted, cannot be local authority councillors or MPs, nor can they "speak or publish written work for the public at large or to a section of the public with the apparent intention of affecting public support for a political party".

8.2 Employees are employed by the County Council as a whole. They serve the Council through the Cabinet, Committees and Sub-Committees and are responsible to the Chief Executive and their Chief Officer, and not to individual members of the Council, whatever office they might hold. Their conduct is subject to the application of the County Council's employment policies and procedures, including the Council's Anti-Fraud and Corruption Strategy and Code of Conduct for Employees

8.3 In accordance with the Council's Code of Conduct for Employees, employees "must not be involved in advising any political group of the Council or attend any of their meetings in an official capacity without the express consent of their Chief Officer and the Chief Executive". This procedure does not apply to Chief Officers or, with the Chief Officers agreement, their staff involved in informal private meetings of the Cabinet or the Shadow Cabinet with the Corporate Management Team. Nor does it obviate the necessity for regular contact on matters affecting the Council between the Chief Executive, Chief Officers, senior employees, and the leadership of political/independent groups, and on matters affecting committees between Chief Officers, other senior employees and Committee Chairs.

8.4 Council decisions can only be made by full Council, the Cabinet, a Lead Cabinet Member, Committees, Sub Committees or Panels, or Chief Officers acting under delegated authority. Decisions by party political groups do not constitute Council decisions. It is essential, therefore, that representations to the

Council, at any stage in the formal decision-making process with regard to any matter, should be made to the appropriate Committee and not to a political group.

9. Conclusion

9.1 This Code is intended to build on the sound arrangements that have existed in East Sussex since 1974.

9.2 Mutual understanding, openness on these sort of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its members and employees.

APPROVED BY COUNTY COUNCIL 1996

Subsequently updated as part of the modernisation arrangements.

Requests for an employee to address group meetings and related points

1. In accordance with the Code of Conduct for Employees, approved by the County Council, the Chief Executive should be made aware of any invitation by a Council political group or any part of a group (such as group members on a particular committee) for an employee to address a group meeting, in sufficient time before any meeting to enable the stages outlined in paragraphs 2 and 3 below to be completed before the meeting.

2. The Chief Executive should be made aware of:

(a) the reason(s) why an employee is being invited to address the group meeting;

(b) the name of the employee(s) concerned if known;

(c) the topic(s) to be covered or on which information or a report is sought.

3. The Chief Executive, after consultation with the Chief Officer and individual employee(s) concerned, will decide whether permission can be given, in whole or in part, to the employee(s) concerned for them to address the meeting and will notify the relevant Group Leader accordingly together with the Leaders of the other Groups and indicate that similar arrangements will be made for them if they so wish. This is to ensure the preservation of the integrity of all concerned through openness and equal access to employees.

4. Since, legally, employees (including the Chief Executive and other Chief Officers) serve the whole County Council, and not individual political groups, their attendance at political group meetings is voluntary.

5. It follows from everything that has been said that employees are entitled to have their political neutrality respected should they agree to attend the group meeting, and to be treated in a fair and proper way. Employees must not be

placed in a position where they feel at a disadvantage or their political impartiality or integrity is put at risk.

6. To safeguard both employees and members, matters which have not been mentioned under 2 above should not be raised in the presence of the employee(s). Employees will be instructed on each occasion that they must leave a meeting if there is any suggestion that they are to be asked to comment on matters beyond the brief agreed in advance, or if they feel vulnerable or that their integrity were to be put in question.

7. Any breach of these arrangements by either members or employees will be viewed seriously and appropriate action taken by Group Leaders or the Chief Executive respectively. The Monitoring Officer will also be informed.

8. These arrangements do not apply to Chief Officers, or with the consent of the Chief Officer, other staff involved in the informal private meetings of the Cabinet or Shadow Cabinet with the Corporate Management Team.

County Council publicity conventions about press releases and responses to/about appearances on the media

Introduction and purpose

1. The purpose of this note is to set down as conventions long-standing rules and practices which govern press releases and media relations. The aim is to avoid misunderstanding and to facilitate effective action and maintain constructive relationships between members and employees.

(i) Section A sets out Basic Rules governing County Council publicity

(ii) Section B covers Group Publicity

(iii) Section C sets out the Conventions

2. The activity of the Communications Team will take account of the priorities of the County Council's Performance Plan and Communications and Consultation Strategy as agreed and amended from time to time and the Convention needs to be read and operated in that context.

3. Providing more information on what the County Council is about and seeking the views and involvement of the public is a vital part of the modernisation agenda.

A. Basic Rules Governing County Council Publicity

CONSTITUTION – PART 5 – CODES AND PROTOCOLS

1. The County Council and any Public Relations/Press Office of a Local Authority in England, or any agency acting on the County Council's behalf, must follow the principles laid down in the Code of Recommended Practice on Local Authority Publicity ("the Code") introduced with the Local Government Act 1986 (amended 1988 and 2001).

2. The Code recognises (a) the role of a Communications and Media Team in helping to make the public more aware of the services which the County Council provides to the community and the functions it performs; (b) the need for Authorities to explain their policies, objectives and priorities to electors and council tax payers and in general to improve local accountability; and (c) the importance of public consultation and two way communications and the use of electronic media.

3. The Code, which was introduced in the 1980s after some Authorities spent large sums of money on publicity which was seen to be party political and/or campaigning, lays down guidance on what is not appropriate publicity for a Local Authority Public Relations and Press Office. The main points are:

- a Local Authority should not publish material designed to affect public support for a political party;
- publicity should be relevant to the functions and powers of the Authority;
- publicity describing a Council's policies and aims should be as objective as possible, concentrating on facts and explanations/ justifications;
- advertising may be appropriate subject to cost-effectiveness and meeting the provisions of the Code;
- comments on proposals of Central Government, other Local Authorities and public bodies should be objective, balanced, informative and accurate;
- publicity touching on issues that are controversial should be handled with care;
- a Local Authority should not use public funds to mount publicity campaigns the primary purpose of which is to persuade the public to hold a particular view on a question of policy; although publicity campaigns to promote the effective and efficient use of facilities and services, or to attract tourism or investment, or to influence public behaviour or attitudes on e.g. health, crime prevention or equal opportunities, may be permissible;
- Local Authorities discharge their functions "corporately" through the Council or its executive (the Cabinet) or committees. The Code, states that "It is therefore inappropriate for public resources to be used to publicise individual councillors". Local authorities must not issue publicity which reports the personal views of individual members, or their activities, except when they are representing the Authority or acting on behalf of the Council (e.g. the Chairman, Leader of the Council or other Cabinet member or Chairmen of Committees); i.e. in the interests of public accountability;
- particular care needs to be taken when publicity is issued immediately prior to an election, to ensure that this could not be perceived as seeking to influence public opinion, or promote the image of a candidate or candidates. This operates once Notice of Election has been given.

4. To summarise, all County Council press and media releases are issued by the Communications and Media Team and can only reflect the policies and decisions of the County Council, the Cabinet and Committees. Quotes from individual members can only be as representatives of the County Council, i.e. the Chairman of the County Council, Leader of the Council, Cabinet member with the portfolio concerned, or Chairmen of Committees and must be confined to policy or comments in response to particular events, which call for a particularly speedy reaction from the Council.

5. Aside from formal County Council press releases, members may have frequent, informal contact with the media. The Communications and Media Team is available to assist members in dealing with media presentations.

B. Group Publicity

1. The advantage of publicity produced by Groups or individual members is that political and other considerations can be communicated, fulfilling a role that County Council publicity cannot.

2. The County Council Communications and Media Team cannot be involved in the preparation or distribution of Group or individual member publicity since that is not County Council publicity.

3. The Communications and Media Team, without contravening these rules, will always try to help a member in relation to handling the media.

C. Conventions for County Council Publicity

1. The Code re-states the constitutional legal position that a Local Authority discharges its functions corporately through the Council. Decisions are taken by the Council, the Cabinet or Committees. The Leader of the Council, or other members of the Cabinet, can be given executive authority in relation to their portfolios but, in law, Committee Chairmen or other members may not be given executive authority.

2. Publicity by the County Council has to comply with the Code and the specific accounting rules governing such expenditure: particular care will be taken once Notice of Election has been given.

3. Publicity must not report the view of individual members, except where they are formally representing the Council. A statement or comment or explanation of official Council, Cabinet or committee policy by a Chairman, the Leader of the Council or other members of the Cabinet responsible for the portfolio(s) concerned is included where that is appropriate. Press releases with a quotation from the Chairman, Leader of the Council or other member of the Cabinet can be issued in advance of an issue coming before the Cabinet, committee or sub-committee by making it clear that the Cabinet, committee or sub-committee will be considering it.

CONSTITUTION – PART 5 – CODES AND PROTOCOLS

Only Chairmen, the Leader of the Council or other member(s) of the Cabinet can formally comment on official committee or Cabinet policy (or on what the committee or Cabinet may decide).

4. The Leader of the Council and members of the Cabinet will agree the detail of their arrangements and will liaise with the Press and Communications and Media Team.

5. Copies of press releases will be circulated to all members via e-mail and copies will also be put on the County Council website.

6. Employees seek to operate with common sense and flexibility but they have to operate within what is legitimate within the rules. The Head of Communications will, on occasions, have to make judgements, advised by the Assistant Chief Executive or his/her colleagues, who may also have to make decisions as to what is and what is not possible within the rules.

Operation of the Shadow Cabinet

1. The Shadow Cabinet is not part of the formal decision-making process but is an informal body comprising opposition group spokespersons on each of the service areas identified for the Cabinet.

2. One of the principles agreed at the start of the modernisation programme was that the democratic structures that are put in place should be robust enough to withstand changes in the administration of the authority. If the administration consists of one party, with the remaining parties forming the opposition, an informal Shadow Cabinet may not exist. Alternatively, one opposition group may form itself into a Shadow Cabinet but arrangements for briefing opposition groups would be made similar to those set down for the Shadow Cabinet. It is the commitment of the Council to brief the non-administration group(s) by senior officers which needs to be recorded and preserved. That has been the Council's approach from the outset, re-affirming the principle that officers remain the servants of the whole Council and the practice of providing information to, and being open with, all members.

3. Formal briefings are offered in closed meetings to the Shadow Cabinet before each County Council meeting. Briefings are given collectively by the Chief Executive, Chief Officers, or senior officers in their departments, depending on the subject matter. Spokespersons of the group(s) outside the administration are also entitled to information/ briefing on issues which are to be considered by the Cabinet at a formal meeting.

4. Briefing is offered to groups individually on specific issues, such as the budget. Any information given to officers by the groups and any advice provided on specific group proposals will be kept confidential. It is not possible for opposition groups to commission work on policy proposals. Such matters will be dealt with through the scrutiny arrangements, requests to the Leader of the Council or Notices of Motion.

CONSTITUTION – PART 5 – CODES AND PROTOCOLS
