

Agenda Item No: 14

Report No: 93/15

Report Title: Protocol on Member/Officer Relations

Report To: Council

Date: 16 July 2015

Cabinet Member: Councillor Merry

Ward(s) Affected: All

**Report By: Catherine Knight, Assistant Director of
Corporate Services**

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Purpose of Report:

To seek Council's approval to amend the Protocol on Member/Officer Relations, bringing in new provisions on Member meetings and discussions with external commercial bodies.

Officers Recommendation(s):

- 1 That Council agree to amend the Protocol on Member/Officer Relations by adding the new provisions set out in paragraph 2.4 of this report.

Reasons for Recommendations

- 1 The Protocol on Member/Officer Relations is one of a number of Codes and Protocols set out in the Council's constitution. Amendments to that part of the constitution may only be approved by full Council.

Information

2 Background

2.1 In October 2014 a report by the Head of Audit and Performance recommended a number of revisions intended to strengthen certain areas of the Constitution.

2.2 The Head of Audit's recommendations included this one:

“The Assistant Director of Corporate Services (in her capacity as Monitoring Officer) should add to the existing Protocol on Member/Officer Relations to make clear that it is the role of officers, not Councillors, to negotiate on behalf of the local authority, to evaluate proposals and to ensure that any proposal is brought into the Council’s governance system so that any decision relating to it is properly taken.”

- 2.3** To give effect to the recommendation at paragraph 2.2 above, it is proposed that the following provisions be added to the Protocol on Member/Officer Relations:

“Respective roles of Members and Officers in identifying and progressing commercial opportunities on behalf of the council

1. Through Cabinet and full Council, Members are responsible for the formulation and approval of the council’s Budget & Policy Framework, a set of strategies that include the council’s corporate plan. Once this strategic framework is in place, it is the responsibility of officers to deliver these agreed plans and policies. In this context, “delivery” by officers includes identifying and evaluating commercial opportunities consistent with the Policy Framework, negotiating with external parties, as appropriate, and, for those opportunities considered worthy of further progression, submitting detailed proposals at the appropriate time to the relevant Council decision-making forum for consideration and approval.
2. As a public body, the council’s commercial dealings with other parties are subject to particular legal and financial requirements. Members should therefore avoid discussions or meetings with third parties over commercial matters, unless council officers properly versed in these governance arrangements are present. This should protect the council’s best interests by ensuring that any opportunities, negotiations and proposals are handled fairly, lawfully and with the necessary financial prudence.
3. These provisions should be read in conjunction with:
 - (i) The Councillor Protocol for Procurement, appended to the Council’s Contract Procedure Rules; and
 - (ii) The Code of Conduct for Members”

- 2.4** A further recommendation was to support the amended Protocol on Member/Officer Relations with guidance to help councillors understand the risk of engaging with external commercial parties unless advised or accompanied by suitably qualified officers. The Assistant Director of Corporate Services is developing this guidance and will communicate it to Councillors in due course.

3. Financial Appraisal

There are no direct financial implications arising from the recommended amendment to the Protocol on Member/Officer Relations. As explained in the report, the proposal is intended to protect the Council's commercial and financial interests.

4. Legal Implications

The legal risks of not adhering to the amended protocol on Member/Officer Relations are potentially significant. These risks will be set out in the guidance document referred to in paragraph 2.4 above.

5. Risk Management Implications

The proposed amendment to the protocol on Member/Officer Relations is intended to minimise the risk of a legal challenge against the Council, by putting in procedures that ensure that engagement by councillors with external commercial parties is proper and lawful.

6. Equality Screening

There are no equality implications associated with this report.

7. Background Papers

Report to Audit & Standards Committee of 1 December 2014: Summary Audit Report – (Report no. 177/14)

8. Appendices

None