

Committee: STANDARDS COMMITTEE
Date: 12 July 2004
Agenda Item No: 4
Title: GUIDANCE ON MEMBER OFFICER RELATIONSHIPS
Author: Michael Perry (01799) 510416

Summary

- 1 Members will recall being informed of the objective in the Quality of Life Plan to review the Member/Officer protocol. The protocol had in fact been reviewed (with external assistance) before the May 2003 elections. The revised protocol was recommended by this Committee to Full Council, which gave the protocol its unanimous approval.
- 2 Discussion with Members indicated that what was required was not a review of the existing protocol but supplementary guidance on Members and Officers working together on designated projects. This report is to inform Members of the nature of Member/Officer working groups and to seek its guidance on Member/Officer relationships.

Background

- 3 The Quality of Life Plan contains a large number of projects. Lead Officers have been designated to assume responsibility for these projects. It is the wish of Members that they should be more closely involved in the delivery of projects than has previously been the case. With this object in mind, the Administration have nominated Members to be assigned to the individual projects. Opposition groups have also been invited to nominate Members to these projects.
- 4 Both as a matter of law and pursuant to the current Member/Officer protocol, Officers must be politically neutral. It is suggested, therefore, that political groups which do not form part of the administration should be actively encouraged by Members and Officers to nominate members of their groups to the specific projects.
- 5 There has been a lack of clarity as to with whom the responsibility for making initial contact lays. Officers acknowledge the requirement to deliver the Quality of Life Plan. However, Members recognise that day to day service provision remains a high priority. Lead Officers, therefore, need to prioritise the various areas of work for which they are responsible balancing the needs of service delivery against the requirement to deliver the Quality of Life Plan. It is therefore, suggested that the responsibility for making initial contact should rest with the Lead Officer. Where there are competing demands upon resources, the Lead Officer will report back to the Members assigned to the project. Members who are concerned at the rate of progress will contact the

Lead Officer in the first instance. If they are not satisfied with the explanation they should refer the matter to the Executive Manager with overall responsibility for the project or (if the Lead Officer is an Executive Manager) to the Chief Executive.

- 6 It is suggested that Members and Officers designated to a project should meet at agreed intervals to discuss and monitor progress. Officers should supply designated Members with background papers relevant to the project or alternatively (if such material is bulky) inform Members where that material may be accessed. Officers should keep Members advised of any progress between meetings.
- 7 One of the prime objectives of closer Member/Officer working is that Officers should be able to gauge the views of Members in advance of preparing a report. Members assigned to projects should, therefore, act as a liaison between the Lead Officer and their political groups and in particular should report back to their groups on progress to minimise the number of enquiries Lead Officers receive from other Members and to enable Lead Officers to have an understanding of the view of the individual groups with regard to particular projects.
- 8 Under the Local Government Act 1972, a District Council operating (as Uttlesford District Council does) under alternative arrangements can only act by Full Council, through Committees or Sub Committees, through another local authority by way of a joint working arrangement or through Officers under delegated powers. Individual Members do not have any decision making powers. Further, Officers duty is to the Council as a whole and not to individual Members. Officers must report facts impartially and give the Council their personal professional advice and opinions. It is suggested that any guidance should make it clear that where there is a difference of opinion between Members assigned to a project and the Lead Officers that the recommendations (if any) in the report will be that of the Officer although the Member's views will be fairly reported.

RECOMMENDED that Members consider that guidance be given to Members and Officers regarding Member/Officer working relationships.

Background Papers: The Member/Officer Protocols of Uttlesford District Council, Bedfordshire County Council, Essex County Council, Liverpool City Council, St Helens Council, Bath and North East Somerset Council.
Discussion Paper placed before Officer/Member workshop on 17 June 2004 (copy attached)

MEMBER OFFICER PROTOCOL

An objective of the Quality of Life Plan (QLP) is to review the Member Officer Protocol. In preparing this paper regard was had to protocols approved by a number of other authorities including Bedfordshire County Council, Essex County Council, Liverpool City Council, St Helens Council and Bath and North East Somerset Council.

Uttlesford District Council reviewed its Member Officer Protocol in March 2003 with assistance from IDEA. The revised protocol was recommended by the Standards Committee and adopted by Full Council. Comparing the UDC protocol with those mentioned above the basis for the protocols is common. They all define the roles of Members and Officers in similar terms, they set out what Members and Officers can expect from each other and set out steps to be taken when Member Officer relationships break down.

The Members assigned to the task of reviewing the Member Officer Protocol (Councillors Clarke and Wilcock) are broadly supportive of the existing code but are concerned that there is an absence of clarity as to how Members and Officers should work together in small groups to achieve the objectives of the QLP. It was the view of those Members and the Executive Manager Corporate Governance that rather than amend the Protocol, guidance should be issued as to how these groups should operate. Issues of probity are clearly involved and the Standards Committee of the Council should be consulted and its advice sought. However it is suggested that Members may wish to consider the following issues:-

1. Members and Officers have been designated certain projects within the QLP. The Member Officer Protocol makes it clear that Officers are and must be politically neutral. Political groups which are not part of the administration should therefore be encouraged to nominate Members of their groups to be assigned to these projects.
2. Members have already determined that where resources create conflict between the provision of services and the QLP the provision of services will prevail. Officers will have full regard to the requirement to deliver the QLP but will be responsible for prioritising the various areas of work for which they are responsible. For this reason the initial contact for any project will usually be made by the Officer to the Members concerned. Where the requirement to deliver services will involve delays in delivering the QLP the designated officer will report back to the Members assigned to that project. If Members are concerned at the

rate of progress they will contact the lead Officer in the first instance. If they are not satisfied with the explanation they shall refer the matter to the Executive Manager with overall responsibility for the project or (if the lead Officer is an Executive Manager) to the Chief Executive.

3. Members and Officers designated to a project should meet at agreed intervals to discuss and monitor progress. Officers are responsible for keeping assigned Members informed as to any progress between meetings.
4. Members should act as a liaison between the lead Officer and their political groups, in particular to report back to the groups on progress to minimize the number of enquiries lead Officers receive from other Members and to enable the lead Officer to have an understanding of the view of their groups with regard to the project.
5. Members should recognise that any decisions which need to be taken relating to any projects are to be taken by the Council, its Committees or Officers under delegated powers and that individual Members or groups assigned to work with Officers on specific projects (unless formed as a Committee appointed by the Council or a Sub-Committee appointed by a Committee of the Council) have no decision making powers. Officers have a duty to report facts impartially and to put their own professional opinions and advice to the Council and its Committees. Where there is a difference of opinion between Members assigned to a project and the lead Officer, whilst the lead Officer will report the views of the assigned Members fairly and impartially (and members may of course speak at meetings where such reports are considered) the recommendation will, in the case of disagreement, be that of the Officer.

Members are invited to comment upon the above to enable a report to be prepared for consideration by the Standards Committee with a view to that Committee issuing guidance to the Council

Michael Perry
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Committee: STANDARDS COMMITTEE
Date: 12 July 2004
Agenda Item No: 5
Title: VISIT TO ADJUDICATION PANEL FOR ENGLAND
14 JUNE 2004
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Summary

- 1 On 14 June 2004 Members of this Committee and Officers attended at a hearing of the Adjudication Panel for England of a complaint of alleged breach of the Members' Code of Conduct against Councillor Sloam of Barnet London Borough Council. This report is to inform Members of the procedure adopted at and the outcome of the hearing and to seek Members' views on any guidance Members consider may be appropriate for District, Town and Parish Councillors and to consider future training needs.

Background

- 2 The facts of the case were not in dispute, which is unfortunate as no summary of the facts was given at the start of the hearing. However, certain facts emerged during the course of the hearing and further information has been obtained from a report in the Management Journal.
- 3 The allegations against Councillor Sloam were that he had brought his office as Councillor into disrepute in three ways:-
 - (a) He had been convicted of an offence of attempting to evade payment of parking fines by deception.
 - (b) He had used his position as a councillor to endeavour to secure an improper advantage for another person by writing a letter on council notepaper trying to persuade the London Borough of Camden to waive four penalty charges against his son because his son had displayed a disabled badge. The badge had, in fact, been left in the car by the previous owner.
 - (c) He had further attempted to use his position as Councillor to obtain an improper advantage for his son by telephoning the London Borough of Barnet and speaking to an officer there responsible for issuing disabled parking permits. Councillor Sloam introduced himself by his title to the officer concerned and asked her to issue a disabled parking permit for his son that day, which the Councillor would collect, notwithstanding that the Councillor's son was not entitled to such a permit.

- 4 Councillor Sloam accepted the facts as presented. He also accepted that the facts as alleged at sub-paragraphs (a) and (b) above did constitute a breach of paragraph 4 of the Code of Conduct as bringing his office into disrepute. He denied, however, that the facts as set out at sub-paragraphs (b) and (c) above constituted a breach of paragraph 5 of the code in that he did not accept that he had sought to secure an improper advantage for his son in his capacity as Councillor.
- 5 In his defence, Councillor Sloam referred to the fact that although the notepaper used was Council notepaper he had used the same in a private capacity and not with any intention of using his office to obtain an improper advantage. Councillor Sloam pointed to the fact that the address for reply on the notepaper was his home address and produced copies of other correspondence which indicated that when he was writing in his capacity as a councillor the address he gave for reply was the Members' Room at the Town Hall. Councillor Sloam acknowledged that one interpretation of the facts could be that he had tried to use his position to gain an improper advantage but that that had not been his intention. With regard to the telephone call to the officer at the London Borough of Barnet, Councillor Sloam said that he introduced himself to the officer concerned by his title of Councillor as a courtesy. He felt that it was important that the officer concerned should have known that she was dealing with a member of the authority. Councillor Sloam accepted that one interpretation of the facts could be that he was endeavouring to use his position to obtain an improper advantage but that that had not been his intention.
- 6 Having heard submissions on behalf of the Ethical Standards Officer, the Panel found (as admitted) that the act of writing the letter to the London Borough of Camden and the fact of Councillor Sloam's conviction for an offence of dishonesty did bring his office as Councillor into disrepute. The panel also found that in writing the letter to the London Borough of Camden, Councillor Sloam was using his position to try and obtain an improper advantage for his son in breach of the code. With regard to the telephone conversation with an officer at the London Borough of Barnet the Panel decided that whilst Councillor Sloam was indeed trying to obtain an improper advantage for his son (and the Panel took a dim view of such conduct) his explanation that he introduced himself as Councillor Sloam as a courtesy was accepted and that he had, therefore, not tried to obtain an improper advantage in his capacity as Councillor. In that regard there had, therefore, been no breach of the Code of Conduct.
- 7 Councillor Sloam produced a number of testimonials which were not read out in public. Having considered these and submissions made by Councillor Sloam and on behalf of the Ethical Standards Officer, the Panel decided that Councillor Sloam should be disqualified from being a member of any relevant authority for a period of 12 months.
- 8 Procedurally the hearing followed very much the guidance given by the Standards Board for the Conduct Of Hearings by Standards Committees.
- 9 The procedure is divided into four distinct sections. After introducing the Members of the Panel, the Chairman sought to identify any procedural issues

which there may be and which would need to be dealt with before the hearing got under way. The second part of the hearing was not proceeded with because the facts were not in dispute. However, the Chairman explained that had there been a dispute of facts the Panel would have heard from the Ethical Standards Officer and then from Councillor Sloam before retiring to consider what the facts of the case were. The Chairman made it clear that the panel would form its own view of the facts independently from the facts as found by the Ethical Standards Officer. (By analogy this Committee would not be bound by any findings of fact made by an Ethical Standards Officer or the Monitoring Officer or his Deputy). Having determined the facts the Panel would then return and state its findings of fact to the parties.

- 10 As the facts in this case were not disputed, the Panel moved straight to the third part of the hearing process. Surprisingly the Panel sought submissions in the first instance from Councillor Sloam as to whether he considered the facts established a breach of the code. Submissions were then made on behalf of the Ethical Standards Officer and Councillor Sloam was given a right of reply. The Panel then retired to determine whether they considered the facts as agreed constituted a breach of the Code of Conduct. The order of submissions in this case does not accord with other cases reported on the Adjudication Panel's website. Generally it appears that the Ethical Standards Officer first makes submissions and the Councillor facing the allegations has a right of reply. Members may consider that this is a better practice. Where facts are disputed, the submissions as to whether the facts constitute a breach of the code should be based upon the facts as found by the Panel/Committee, not those put forward by the parties in their evidence. Members may consider that a short break to enable parties to absorb the Committee's findings of fact where facts have been disputed would be of assistance to them in formulating submissions on this basis.
- 11 Having returned and announced its findings on the breach of the code, the Panel invited submissions firstly on behalf of the Ethical Standards Officer and then from Councillor Sloam as to the appropriate course of action. The Panel then retired to consider the sanction. On returning to the Hearing Room and announcing the sanction, the Chairman properly informed Councillor Sloam of his right to appeal.
- 12 With regard to future member training, the next Adjudication Panel hearings which are reasonable close to Saffron Walden are on the 17 August 2004 at Wyboston, Bedford and on the 6th and 7th September 2004 at Peterborough. The disadvantage of the latter is that this is a two day case involving a Councillor. There is also a case involving a Halsted Parish Councillor due to be heard on 27th September. No venue has been set for this hearing at present but it is likely to be in Essex/South Cambridgeshire. Members (particularly those unable to attend the hearing in June) may consider attendance at one of these hearings would be of benefit to them.
- 13 Material has now been obtained from another local authority, which would enable officers and Members of this Committee to participate in a "mock hearing" should Members believe that this may be helpful.

RECOMMENDED that

- 1 Members determine what advice (if any) they wish to give to Members of the District, Town and Parish Councils from their experience of Councillor Sloan's case.
- 2 Members consider what further training (if any) and guidance they would wish to receive to equip them to deal with hearings of allocations of breach of the code.

Background Papers: Municipal Journal week ending 18th June 2004
Adjudication Panel for England website