

Appendix 1

The Respective Roles of Members and Officers and Dealing with Conflicts of Interest

Introduction

Cherwell District Council (CDC), Stratford-on-Avon District Council (SDC) and South Northamptonshire Council (SNC) intend to create shared teams. Shared officers will be dividing their time on an equal basis between the authorities (although peaks of work in one Council may result in short term variations from this) and will at all times act in the best interests of all the authorities. Underpinning this is an acknowledgment that where a smaller number of officers will be serving the organisations, there will be a need to reflect this new set of circumstances in the way in which officers have to operate.

Members of the authorities need to be sensitive to this change with regard to the respective roles of officers and members. In particular all members and officers need to be aware of the action to be taken when there is an actual or potential conflict of interest in acting for more than one authority.

Having a protocol of this nature is a requirement of the Section 113 agreement between the councils.

The role of Members

Full Council in all the authorities is collectively responsible for setting Council policy within the defined policy framework. All the authorities state their intention to remain sovereign bodies under the Section 113 agreement but in setting their own Council policy they will have regard to the views and policies of the other authorities and will endeavour to avoid adopting any policy which explicitly and overtly contradicts the policy of the other authority.

At neither authority are members directly involved in the day to day provision of services to the public but members of the Executive/Cabinets will have a close involvement with officers in dealing with the effectiveness of service provision. It is recognised that on occasion this may result in the need for immediate contact with officers but where practicable such contact will be on a managed basis. In order to make best use of officer and member time, there will be mutually managed contact between Executive/Cabinet members and officers on service provision where members pursue matters on behalf of their constituents.

As only Executive/Cabinet portfolio holders have executive authority/responsibilities as members all other members will need to pursue

matters with the appropriate portfolio holder or officer through a managed approach.

No member (portfolio holder or otherwise) should become involved in the day to day management or operation of the department, which shall be the responsibility of the service manager.

The role of Officers

Officers are equally accountable to the Council and the Executive/Cabinets of all three councils.

Officers are professional advisers on policy and carry out the instructions of the Council and the Executive/Cabinets as well as exercising powers that are delegated to them and taking operational decisions within their areas of responsibility. The possibility of conflict between the Councils arising from those policies and instructions should be minimised by identifying from the outset where potential conflict might arise and referring, if necessary, such conflict through the dispute resolution mechanism in the Section 113 agreement.

How these roles work in practice

Decisions on matters relating to each Council's policy framework are taken by members at meetings of full Council, usually after having considered the recommendations of the Executive/Cabinet or appropriate Committee which in turn considers the recommendations of the officers.

Decisions on policy matters within the relevant Council's policy framework are taken by the Executive/Cabinet having considered the recommendations of officers.

The Councils each have an adopted scheme of delegation. These schemes set out what is delegated to which body or officer, either conditionally or unconditionally. The Councils can each review their scheme of delegation at any time to ensure decisions are being taken at the appropriate level. The process of delegation ensures that members are not overloaded with relatively less important matters and can concentrate on important policy issues and the effectiveness of service provision and continuous improvement in service. Members who are not portfolio holders have an important role in representing the views of their constituents and ensuring through scrutiny that the Council's policies and plans are effectively delivered. Some members (portfolio holders and otherwise) have roles on regulatory committees dealing with matters such as planning and licensing.

To minimise the possibility of any conflict of interest, or defect in process, the schemes of delegations of the authorities should be harmonised so far as possible. Where differences need to remain there should be a clear business case for this.

It is recognised that there may be rare occasions in a regulatory context where it is not possible to reconcile the interests of the Councils with their respective legal responsibilities. Such conflicts shall be managed by ensuring that relevant officers in each Council are ring fenced from each other to ensure that due regard is taken of each Council's regulatory duties and the need for certain matters to remain confidential to one or other Council.

Statutory requirements

The Councils derive their powers from statute. Some of these are mandatory (i.e the Councils must do them) and some are discretionary (i.e the Councils may carry them out if they wish). In all cases members and officers of the authorities may only operate within the law.

Each council must have a Head of Paid Service, a Monitoring Officer and a Section 151 Officer. These officers have an obligation to act in the best interests of the authorities that has appointed them.

If any of these statutory posts consider that there is a conflict of interest within their area of responsibility which is affecting the ability of any of the Councils to function effectively the most appropriate statutory officer may take a report to any or all of the full Councils that appointed them setting out the conflict of interest and proposals for resolution.

Summary

Members are responsible for setting Council policy.

Officers are responsible for advising members on the setting of Council policy and for ensuring such policy is implemented.

The scheme of delegation determines which body or person deals with particular matters, and at which level decisions are taken.

The day to day management and operation of services is the responsibility of officers.

Where officers are dividing their time equally between the authorities members need to have regard to less time being available for their authority alone and the need to manage contact with officers to ensure the optimum use of both member and officer time.

If conflicts arise in relation to the respective regulatory duties of each Council steps will be taken to ensure the ring fencing of officers at each Council and the confidentiality of information as necessary.

Otherwise, where there is actual or potential conflict there are three routes depending on the nature of the conflict,

1. agree to pay for appropriate external support to advise any of the authorities.
2. refer the issue through the dispute mechanism in the section 113 agreement
3. the most appropriate statutory officer may refer the matter to any or all of the full Councils for resolution.

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