

Part 14: Conventions for the Management of Council Business and a Protocol on Member/Officer Relations

(Adopted 2015, reviewed May 2022)

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14.1 Introduction

The Conventions were originally drafted in consultation with the Leaders of the three Political Groups on the Council at the time and agreed by the Council in May 1995 to assist in the management of the Council's business in the situation where no single Political Group had an overall majority. They have been amended from time to time, as required by the Council, and now reflect a situation where a single Political Group has an overall majority.

The Conventions supplement the current Rules of Procedure and practice within the Council in the areas covered, and contain a protocol for relations between Members and Officers.

Where difficulties of interpretation or unforeseen circumstances arise, the matter will be discussed with the Political Group Leaders together with the Chief Executive to determine a way in which it might be handled.

14.2 Terminology

The Member elected by the Council to be its Chair shall be known as the "Chair of the Council".

The person appointed by the majority Political Group to be its Leader shall be the Leader of the Council and lead the Executive. They shall be known as the "Leader of the Council".

The person appointed by each Political Group as its leader shall be known as the "Leader of the Group" as is appropriate.

The Political Group with the second largest number of seats on the Council shall be known as "the Opposition Group", and the Leader of that Group shall be known as the "Leader of the Opposition".

The Member elected by any Committee, Sub-Committee, Panel or Working Party shall be known as "Chair of the Committee, Sub-Committee, Panel or Working Party" as is appropriate, unless the Chair wishes to be known as "Chair".

14.3 Members and Officers: Their Respective Roles

In order for the management of the Council's business to be handled effectively, it is necessary for the relationship between Members and Officers to be clearly defined and understood.

Given the difference in their roles, it is important that mutual respect exists between Officers and Members and both should observe reasonable standards of courtesy in their dealings with each other and neither party should seek to take unfair advantage of their position.

The Council's code of conduct for councillors provides that councillors should treat others, including officers, with respect, that they should not bully any person and that they should not do anything that compromises or is likely to compromise the impartiality of those who work for or on behalf of the Council.

14.4 Political Groups

Political Groups (not necessarily the same thing as a political party) have been recognised in law since 1990. The rules concerning the establishment of Political Groups and their Membership and any changes thereto will be notified to Members by the Director of Law and Governance, so that Groups may be properly formed or changed from time to time.

On the basis that Political Groups exist within the Member structure and are likely to continue to do so:-

- the notification of Group Leaders should take place before the date of the Annual Meeting of Full Council;
- for each Executive area of responsibility, Committee or Sub-Committee, each Group may nominate both a Member to be the main point of contact and a Deputy. The main point of contact will be the Portfolio Holder or the Chair in

respect of the Group taking that position. For the other Groups the person shall be designated the "Group Spokesperson". The deputy to the Group Spokesperson shall be designated the "Deputy Group Spokesperson".

- The Group Leaders will submit to the Chief Executive by the Friday following the Annual Council Meeting, a list of those Members whom they wish to act as Group and Deputy Group Spokespersons.

A Political Group may legally consist of a minimum of two Members.

The Council will decide whether or not Political Group Leaders are paid a Special Responsibility Allowance and, if so, the level of such allowance. In reaching that decision, the Council will take into consideration the recommendations of the Independent Remuneration Panel.

The council office at Castle Quay has three Member meeting rooms. One is allocated to the Leader of the Council. The other meeting rooms and Members' Lounge area may be used by all Members. If available and within reason, on request the Democratic and Elections Team will book Member meeting rooms for Members. As far as practicable, the Democratic and Elections Team will book meeting rooms for political groups to meet ahead of Full Council meetings.

14.5 Members Briefings and Access to Information

14.5.1: Briefings

Personal briefings on matters to be raised at meetings of Committees, Sub-Committees, Panels and Working Parties may be given by members of the Corporate Leadership Team to the Chair, Vice-Chair and Group Leaders.

Briefings for Committee, Sub-Committees, Panels and Working Parties for the appropriate Chair, Vice-Chair and the Spokespersons for the Political Groups may take place at the same time, unless any Group request separate briefings.

A member of the Leadership Team taking a report to Full Council, the Executive, a Committee, Sub-Committee, Panel or Working Party shall consult the relevant Portfolio Holder before finalising the report save in the case of some reports to the Overview and Scrutiny Committee. The Officer will always remain responsible for the contents of their report.

14.5.2: Access to Information

As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law, and details we set out in the Constitution in the section headed "Access to Information Procedure Rules".

The common law right of Members is much broader and is based on the principle that any Member has a prima facie right to inspect Council documents so far as their access to the documents is reasonably necessary to enable the Member properly to perform their duties as a Member of the Council. This principle is

commonly referred to as the “need to know” principle.

The exercise of this common law right depends therefore upon the Member’s ability to demonstrate that they have the necessary “need to know”. In this respect a Member has no right to “a roving commission” to examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. This question must initially be determined by the particular Assistant Director whose service holds the document in question (with advice from the Assistant Director Law and Governance). In the event of dispute, the question falls to be determined by the Chief Executive, and if the Member is then still not satisfied, the Executive may be requested to determine the matter.

In some circumstances (e.g. a Committee Member wishing to inspect documents relating to the functions of that Committee) a Member’s “need to know” will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will be expected to justify the request in specific terms.

Whilst the term “Council document” is very broad and includes, for example, any document produced with council resources, it is accepted by convention that a member of one Political Group will not have a “need to know”, and therefore no right to inspect, a document which forms part of the internal workings of another Political Group.

Further and more detailed advice regarding Members’ rights to inspect Council documents may be obtained from the Assistant Director of Law and Governance.

Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member’s duties as a Member of the Council. This point is emphasised in Part 11 Councillor Code of Conduct in the following terms:

6.4 Confidentiality and access to information

A Councillor:

- 6.4.1 Shall not disclose information either given to them in confidence by anyone or acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, unless*
- i. They have received the consent of a person authorised to give it; or*
 - ii. They are required by law to do so; or*
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or*
 - iv. the disclosure is reasonable and in the public interest; and also made in good faith and in compliance with the reasonable requirements of the local authority and consultation with the Monitoring Officer has taken*

place prior to its release.

- 6.4.2 *Shall not improperly use knowledge gained solely as a result of their role as a Councillor for the advancement of themselves, their friends, family members, employer or business interests.*
- 6.4.3 *Shall not prevent anyone from getting information that they are entitled to by law.*
- 6.4.4 *When making decisions on behalf of, or as part of, the Council shall have due regard to any professional advice provided by the Council's Officers.*

Any factual information relating to a matter before a Committee or Sub-Committee that has been provided on request to a Member, whether a member of that Committee or Sub-Committee or not, shall be made available to all members of the Committee or Sub-Committee concerned where the information is relevant to a decision to be made.

If a member of Leadership Team considers that meeting a request for factual information would involve a substantial commitment of resources, they may refer the matter initially to the Group Spokespersons for the Committee, Sub-Committee, Panel or Working Party and, in the event of the matter not then being resolved, to the appropriate Committee or Sub-Committee.

Notwithstanding the position set out above, if a Chair or a Spokesperson wishing to pursue a particular line of enquiry indicates that the matter is to be regarded as confidential, then there shall be no disclosure of that information to any other Member without their permission. That does not preclude the same information being provided to another Spokesperson if it is sought independently. (The principle is, therefore, not that the information itself is kept confidential but that Spokespersons are entitled to pursue their own lines of enquiry without other Members being told).

Nothing in this section shall inhibit the right of Members to seek and receive information and advice properly relevant to their duties and responsibilities.

14.6 Relationship Between Officers and Portfolio Holders and Chairs

It is clearly important that there should be a close working relationship between the Chairs of Committees, Portfolio Holders and Leadership Team. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other Political Groups.

Whilst the Chair of a Committee (or Sub-Committee) will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be

recognised that in some situations an Officer will be under a duty to submit a report on a particular matter. Similarly, an Officer will always be fully responsible for the contents of any report submitted in their name. Any issues arising between a Chair and a Chief Officer in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

Finally, it must be remembered that Officers within a service are accountable to their Assistant Director and that whilst Officers should always seek to assist a Portfolio Holder or Chair (or indeed any Member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Service Head.

14.7 Non-Scheduled Meetings

A Member who is attending a meeting as deputy for the Leader of the Council or Political Group shall advise the Assistant Director Law and Governance prior to the commencement of the meeting of that fact, and such attendance shall be recorded in the Minutes of the meeting.

When non-scheduled meetings of Committees and Sub-Committees are required, all reasonable efforts will be made to fix an acceptable date in consultation with the Chair and Group Spokespersons.

For small meetings, all reasonable efforts will be made to contact all Members concerned, but the practicalities and required time-scales may militate against this. Substitutes should be used to ensure that, as far as possible, appropriate representation is available.

14.8 Group Leaders and Attendance at the Executive and at Committees

As provided for in the Meeting Procedures Rules, the Leaders of all Groups shall be entitled to attend and speak at meetings of Committees and Sub-Committees. Group Leaders may also attend, and make a statement on items of business on the agenda of the Executive. Group Leaders may arrange for a deputy to represent them at any such meeting they are entitled to attend but both shall not simultaneously attend such a meeting acting in the capacity set out above.

The Assistant Director Law and Governance shall be advised prior to the meeting of the name of any Member deputising for the Leader of a Group and acting in the capacity set out above.

14.9 Requests for the Preparation of Reports

Without prejudice to the right of a member of the Council to give notice to the Chief Executive that they wish an item to be included on the agenda for the next available meeting of the Overview and Scrutiny Committee, formal requests to members of the Leadership Team for a report on a particular issue to be prepared

should only come from the Leader of the Council, or relevant Portfolio Holder or Chair of the relevant Committee, Sub-Committee, Panel or Working Party or a Group Spokesperson. If, in the opinion of the member of Leadership Team, the contents might be politically sensitive or involve a considerable effort, they shall discuss the request with the Chair and other Group Spokespersons in order to determine the degree of support it enjoys. Subject to two Group Spokespersons confirming that they wish a report be produced, the Officer shall prepare the report. Committees, Sub-Committees, Panels or Working Parties may also request formal reports from Officers.

If such requests cover the responsibility of more than one Committee, or would include significant financial implications, they should be addressed to the Chief Executive in the first instance for discussion with the Group Leaders.

The procedure for overview and scrutiny envisages that the wishes of Members of all political groups will be taken into account in setting the work programme. Requests for items to be included in the work programme shall be considered by the Chair and the relevant scrutiny Committee and agreement reached if an item should be added to the work programme. The objective will be to arrive at a manageable work programme and not to obstruct requests for items of business from minority groups.

14.10 Officer Advice to Political Groups

It is common practice for Political Groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to provide information and advice in connection with such deliberations by Political Groups.

Whilst in practice such Officer input is likely to be in most demand from whichever Group is for the time being in control of the Council, information and advice is available to all Groups on the same basis.

Certain points must however be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

- Officer input in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of Group business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of Group business are to be discussed;
- Group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council

decisions and it is essential that they are not interpreted or acted upon as such; and

- Similarly, where Officers provide information and advice to a Group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant body when the matter in question is considered.

Special care needs to be exercised whenever Officers are involved in providing information and advice to a Group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the Council's Code of Conduct for councillors (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.

Officers must respect the confidentiality of any Group discussions at which they are present in the sense that they should not relay the content of any such discussion to another Group.

Any particular cases of difficulty or uncertainty in this area of Officer advice to Groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

14.11 Support Services to Members and Political Groups

The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

14.12 Press Releases and Publicity

All publicity undertaken by the Council will be in accordance with the Code of Recommended Practice on Local Authority Publicity issued by the Department of Communities and Local Government (Circular 01/11).

Press releases issued by the Council shall contain no quotes from Members other than, where appropriate, from the Chair of the Council acting in a civic capacity or from the Executive Leader or the relevant Portfolio Holder or Chair. Comments will only be included if they relate to matters considered by the Executive or Portfolio Holders or any Committee, Sub-Committee, Panel or Working Party and the press release is issued after the appropriate meeting.

Press releases prior to, but concerning matters due to be considered, shall be confined to purely factual information.

All press releases should however, contain the name and telephone contact

information for the relevant Portfolio Holder or Committee Chair.

Members should respond to requests for press, radio and television interviews in a purely personal capacity and the proceedings will be the personal responsibility of the Member concerned.

Where press conferences or media events are arranged, all relevant Portfolio Holders or Committee Chair should be invited to attend as appropriate.

The Communications team will circulate press releases conforming to the above rules to the media. Press releases not conforming to the above requirements should not be issued by Officers of the Council.

In the pre-election period, advice on the extra restrictions applying to publicity will be circulated by the Monitoring Officer. Circumstances where a councillor who is standing for election is publicised and/or quoted in Council publicity during a "purdah" period will not be permitted.

14.13 Correspondence

Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of "blind copies" should not be employed.

Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Member, but this should be the exception rather than the norm. Letters which for example, create obligations or give instructions on behalf of the Council must never be sent out in the name of a Member.

14.14 Involvement of Ward Councillors

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected should as a matter of course be invited to attend the meeting, the maximum possible notice being given. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

Other issues likely to affect Ward Members should be notified to them in advance, for example press releases relating to a particular Ward or significant matters likely to affect a Ward.