

Birmingham City Council

Standards Committee

28 March 2024



Report of: Interim City Solicitor of Law & Governance and Monitoring Officer

Meeting of: New Protocol for Member / Officer Relationships

Date: 28 March 2024

Does the report contain confidential or exempt information? Yes No

If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential:

1. Executive Summary

To agree a new Member / Officer protocol to govern relationships between Members and Officers at Birmingham City Council.

2. Recommendations

That the Committee:

- 2.1 Agrees this report and thanks the Centre for Governance and Scrutiny (CfGS) for their assistance in devising a new protocol.
- 2.2 Approves the draft protocol at Appendix 1.
- 2.3 Recommend Full Council, at the annual meeting, to adopt the new protocol subject to any amendments that may be identified as a result of an analysis of the outcomes of the member survey, and those actions identified in the “next steps” section.
- 2.4 Authorises the Monitoring Officer in consultation with the Chair of Standards Committee to make such amendments before adoption by Full Council.
- 2.5 Approves the actions identified in the Next Steps section.
- 2.6 Agrees that the work programme for briefing and training on this protocol, along with specific dates of training, workshops, and other activities, will be agreed between the Monitoring Officer and the Chair of Standards Committee.

2.7 Agrees that detailed plans for further learning and development for Members and Officers, forming part of the Improvement and Recovery Plan and future Corporate Plan, will be prepared, and reported to the Committee for agreement in the early summer.

2.8 Agrees to review the protocol 6 months after adoption by Full Council.

3. Background

3.1 A priority has been identified in the Independent Review of Governance by the CfGS for the Council to develop a new Member/Officer protocol.

3.2 This report proposes the adoption of a new Member/Officer Protocol which reflects the ongoing work on wider culture change in the Council. At the time of writing there are several programmes of work being undertaken across the organisation that connect to this work, all of them seeking to support action to develop, and then implement, the Improvement and Recovery Plan.

3.3 Ultimately, the objective of this work must be to put in place a more effective and consistent framework for Member/Officer relations. The development of a draft protocol is an important point on this journey, but it is not the destination.

3.4 The agreement of the framework set out in the Protocol will need to be considered as the foundation for a broader and deeper conversation between Members, and between Members and Officers, about duties, roles and behaviours.

4. Research carried out by CfGS and the Council to Support the Drafting of a New Protocol

4.1 CfGS have carried out a review to identify the kinds of measure likely to be able to bring about shifts in attitudes and behaviours, paying particular attention to political relationships. The conclusions, principles and objectives deriving from this review are set out in the next sections. These outcomes have been informed by:

- Engagement with national sector partners.
- Learning from approaches taken by other councils.
- Structured conversations with key Members and Officers

4.2A Member survey has been undertaken (from 6 March 2024 to 22 March 2024) to enable the Council to better understand Elected Members and their needs. Members were encouraged to be as candid as possible in their responses. The responses will be used to inform the protocol and related activities including Member development. Headline findings will be shared with the Committee verbally at the meeting. In due course, a written report on the results will be shared with members.

4.3As part of wider work on organisational culture forming part of the IRP, it is expected that a range of activity will also be carried out with officers. This may include surveys and engagement work which, depending on timings, will be used to inform the ongoing refinement and amendment to this protocol.

4.4The protocol will be reviewed by the Standards Committee 6 months after adoption by Council; this will enable the Committee to consider the performance of the protocol, compliance with its principles and make any resulting necessary amendments.

5. The Current Member/Officer Relations Protocol

5.1The Council's Constitution currently contains a protocol aimed at supporting effective Member/Officer relations.

5.2However, given the failures identified in the Independent Governance Review, CfGS and the Council have concluded that the current Protocol is self-evidently not meeting its required purpose.

5.3The current protocol is a discursive exploration of expected behaviours, and given that it sets no specific, consistent expectations of either Member or Officer conduct, does not provide the required framework for the development and maintenance of productive relationships.

5.4The current protocol makes no reference to the different power dynamics applying to Member/Officer relationship in different circumstances, or the fact that "appropriate" and "inappropriate" conduct and relationships may therefore differ according to those circumstances.

5.5The current protocol does not take account of wider arrangements in place for decision-making and oversight at the authority.

5.6 On account of these shortcomings, and wider challenges relating to some member-officer relationships, the independent Governance Review carried out in late 2023 by the Centre for Governance and Scrutiny highlighted the need for a new Protocol to be developed as part of the Governance Stabilisation Plan.

5.7 In doing so, the Council and CfGS note that the production of a new Protocol is one element of a wider programme of work with both members and officers to take forward behavioural change. The Council recognises that the Protocol will not deliver that change on its own, which is why the learning and development activity set out in the “Next Steps” section.

6. Approaches Taken Elsewhere

6.1 Other Councils have taken variable approaches to the development of Member/Officer protocols. For the most part these tend to be quite perfunctory. Protocols might be updated at the same time as the wider constitution, but those updates are not informed by detailed member/officer dialogue, and do not connect to wider learning and development activity. For many Councils, these protocols may be very old – many date back over 15 years and reflect the now non-existent national standards regime.

6.2 Where Councils *have* undertaken more meaningful reviews of this material it has generally been in connection with a wider organisational objective – a move by a Council to a new operating model, a significant cultural change programme, or similar. The drafting of protocols themselves have under those circumstances been bookended by significant Member and Officer engagement.

7. Conclusions on what a Member-Officer Protocol Can (and Cannot) Do

7.1 CfGS and the Council have drawn from their research the following central principles, which have been used in the development of the Protocol as currently drafted.

- A protocol cannot bring about behavioural change on its own.
- A protocol cannot specify, and create rules for, every single Member/Officer interaction, or type of interaction – it can set out general principles and expectations around certain elements of those relationships but can never be exhaustive.

- A protocol can, and should, act as a basis for further conversation and action on these issues.
- A protocol can – within certain parameters – be used as a mechanism to judge whether the Member, and Officer, Codes of Conduct have been followed/breached. In short, it needs to have “teeth”.
- A protocol adopted wholesale from another Authority won’t achieve anything, because the value in producing it lies in the conversations that underpin that production (and in learning and development work carried out after), rather than the finished document.

8. Objectives Underpinning the Development of a Member-Officer Protocol

A protocol should:

8.1 Provide a clear explanation of the respective roles that members and officers perform, with a view to aiding mutual understanding.

8.2 Be explicit about the exact behavioural expectations around Member/Officer relationships, and interactions.

8.3 Be explicit around the interactions expected in respect of key governance activity – decision-making, challenge and oversight, ward work, and other activity where close member-officer liaison is expected.

Therefore, a protocol needs to do the following:

8.4 Clearly set out Members’ and Officers’ respective roles – and highlight where those roles intersect.

8.5 Highlight and affirm the core behaviours underpinning relationships – this may initially be through reference to the Nolan Principles, but any new values and behavioural expectations being developed as part of the Council’s wider cultural change problem will need to be included.

8.6 In doing so, make especially clear that this is about both Member and Officer relationships; it is important to emphasise that the drafting and development of a Member/Officer protocol is not seen as a measure primarily designed to “manage Member behaviours”.

8.7 Set out how relationships can be expected to be managed in respect of certain key areas of member-officer interactions –to include:

- Policy development and executive decision-making
- Decision-making and liaison on regulatory matters (e.g. planning and licensing).
- Expected relationships, ways of working and expectations with regard to the operational management of services.
- Highlight wider relationships, and how they intersect with member-officer relationships. Member/Officer relationships do not sit in a vacuum, and it is necessary to recognise the other relationships (and factors inherent to those relationship) that impacts on members-officer relations.

8.8 Provide (fictional) worked examples of the above issues – making some of the potential pressures and conflicts more tangible. (This will be developed for the Member and Officer learning and development and appended to the Protocol before adoption by Council.)

8.9 Connected to the above, provide for its use as a learning and development tool (i.e. the protocol itself should be used as the basis for ongoing learning and development activities) and for use in the induction process for new members and new officers, to ensure that people who are new to the authority are aware of expected behaviours and good and bad practice.

8.10 Provide for ways for non-adherence to the protocol to be investigated, and action taken against potential breaches, in line with the Member and Officer Codes of Conduct.

8.11 As drafted, the Protocol submitted to members for approval at this meeting is intended to reflect these needs.

9. Next Steps: Short Term Learning and Development Activity

9.1 To be incorporated meaningfully in the Constitution, the protocol will need to be approved at Full Council. The usual timescale for doing this will be at Council AGM. The period between March and May will be used to share the protocol, embark on learning and development activity to promote understanding of it and

its associated obligations, and by so doing to embed it meaningfully in people's day to day work. This will be integrated with planned wider culture change work.

9.2 The detailed plan of this work programme along with specific dates of training, workshops, and other activities, will be agreed between the Monitoring Officer and Chair of Standards Committee. It is anticipated that training for members and officers will be compulsory. CfGS and Council officers are currently considering options in detail, and propose to seek direction from members at the Committee's meeting.

9.3 With Members, it is anticipated that this learning and development activity will involve:

- Practical discussion in Group meetings; an officer to introduce the key components of the Protocol at Group meetings and for members, in officers' absence, to work through the learning and development tools built into the Protocol to explore what it means for them in a political context.
- Discussion in functional groups; short sessions for Cabinet members, scrutiny members, Audit members, backbench members etc to talk about the specific member-officer dynamics applying to those roles and relationships.
- Integration into the member induction programme for newly elected members and member development programme.

9.4 With Officers, it is anticipated that this will involve:

- Training in the form of workshops, to be delivered online and/or in person to all members of staff regardless of position/grade
- Specific training for officers who regularly interact with members in committee, briefings or otherwise.
- Discussion and workshops within service areas focussing on possible scenarios specific to their area of work
- Integration of the protocol into the staff induction programme

9.5 After initial learning and development activity has been completed the Standards Committee will need to assume formal, ongoing ownership of the Protocol, clearly identifying performance measures, to assure its continued use. The

Monitoring Officer will seek agreement and establishment of these formal monitoring arrangements, from the Standards Committee.

10. Legal Implications

- 10.1 The Localism Act 2011; the Council must promote and maintain high standards of conduct by Members and co-opted Members of the Authority. This includes adopting a Member Code of Conduct.

11. Financial Implications

- 11.1 There are no financial implications.

12. Background Documents

- 12.1 Current Member Officer Protocol
- 12.2 Centre for Governance and Scrutiny Independent Governance Review – December 2023

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