

# **West Northamptonshire Shadow Authority**

## **Protocol on Shadow Councillor/Officer Relations**

### **1. Introduction**

- 1.1 The purpose of this Protocol is to guide Shadow Councillors and Officers of the Shadow Council in their relations with one another.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped however that the approach which it adopts to these issues will serve as a guide to dealing with other issues.
- 1.3 This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Shadow Councillors [and Officers]. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.
- 1.4 It is important that any dealings between Shadow Councillors and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

### **2. The Roles of Shadow Councillors and Officers**

- 2.1 Both Shadow Councillors and Officers are servants of the public and they are indispensable to one another. However, their responsibilities are distinct.
- 2.2 Mutual respect between Shadow Councillors and Officers is essential to good local government.

#### **2.3 Shadow Councillors**

- 2.3.1 Shadow Councillors are responsible to the electorate and serve only so long as their term of office lasts.
- 2.3.2 Shadow Councillors have some main areas of responsibility as follows:
  - (a) Determining the policy of the Shadow Council and giving it political leadership.
  - (b) Monitoring and reviewing the performance of the Shadow Authority.
  - (c) Representing the Shadow Council externally.
  - (d) Acting as advocates on behalf of their constituents. It is not the role of Shadow Councillors to involve themselves in the day to day management of the Shadow Council.

## **2.4 Officers**

- 2.4.1 Officers are responsible to the Shadow Council. Their job is to give advice to Shadow Councillors and the Shadow Council, and to carry out the Shadow Council's work under the direction and control of the Shadow Council, its Committees and Sub-Committees. Officers work to the instructions of Senior Officers and not to individual Shadow Councillors, whatever office the Councillor may hold.
- 2.4.2 The role of Officers is to give advice and information to Shadow Councillors and to implement the policies determined by the Shadow Authority. In giving such advice to Shadow Councillors, and in preparing and presenting reports, it is the responsibility of the Officer to express his/her own professional views and recommendations. Whilst an Officer may report the views of individual Shadow Councillors on an issue, if the Shadow Councillor wishes to express a contrary view he/she should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view.
- 2.4.3 Certain officers e.g. Head of Paid Service, Monitoring Officer, Chief Finance Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the authority and to individual Shadow Councillors. Shadow Councillors must respect these obligations, must not obstruct Officers in the discharge of these responsibilities and must not victimise Officers for discharging these responsibilities.

## **2.5 Expectations**

2.5.1 Shadow Councillors can expect the following from Officers:

- (a) A commitment to the Shadow Council as a whole, and not to any political group.
- (b) A working partnership.
- (c) An understanding by Officers that all Shadow Councillors have the same rights and obligations in their relationship with Officers and will be treated equally.
- (d) An understanding of and support for respective roles, workloads and pressures.
- (d) Timely response to enquiries and complaints.
- (e) Professional advice, not influenced by political views or preference.
- (f) Regular, up-to-date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold.
- (g) Awareness of and sensitivity to the political environment.

- (h) Respect, dignity and courtesy.
- (i) Training and development in order to carry out their role effectively.
- (j) Integrity, mutual support and appropriate confidentiality.
- (k) That Officers will not use their relationship with Shadow Councillors to advance their personal interests or to influence decisions improperly.
- (l) [That Officers will at all times comply with the relevant Code of Conduct].
- (m) Not to be the subject of bullying or to be put under undue pressure.

#### 2.5.2 Officers can expect the following from Shadow Councillors:

- (a) A working partnership.
- (b) An understanding of and support for respective roles, workloads and pressures (and in this regard Shadow Councillors are encouraged to make prior appointments to see Officers).
- (c) Political leadership and direction.
- (d) Respect, dignity and courtesy.
- (e) Integrity, mutual support and appropriate confidentiality.
- (f) Not to be the subject of bullying or to be put under undue pressure.
- (g) That regard will be had by Shadow Councillors to the seniority of Officers in determining the reasonableness of requests and that Shadow Councillors will be mindful of the potential vulnerability of Officers at junior levels.
- (h) That Shadow Councillors will be aware that Officers cannot respond to personal criticism in the same way that Shadow Councillors can and that Shadow Councillors will make their comments accordingly, and will avoid intimidating Officers.
- (i) That Shadow Councillors will not use their position or relationship with Officers to advance their personal interests or those of others, or to influence decisions improperly.
- (j) That Shadow Councillors will at all times comply with the West Northamptonshire Shadow Councillors' Code of Conduct.

## 2.6 Limitations upon Behaviour

2.6.1 The distinct roles of Shadow Councillors and Officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- (a) Close personal familiarity between Shadow Councillors and Officers can confuse these separate roles. It can get in the way of the proper discharge of the Shadow Council's functions, not least in creating the perception in others that a particular Shadow Councillor or Officer may secure advantageous treatment. It can also prove embarrassing to other Shadow Councillors and Officers.
- (b) The need to maintain the separate roles means that there are limits to the matters on which Shadow Councillors may seek the advice of Officers, both in relation to personal matters and party political issues.
- (c) Relationships with a particular individual or party group should not be such as to create public suspicion that an Officer favours that Shadow Councillor or group above others. The issue of Officer advice to party political groups is specifically covered below.

### **3. Executive Arrangements**

- 3.1 The Shadow Council has established a Shadow Executive Committee which is the Shadow Council's principal decision-making body.
- 3.2 Certain points must be clearly understood by Officers and Shadow Councillors:
  - (a) The Shadow Executive Committee is the decision making body within the policy framework and budget set by the full Shadow Council.
  - (b) The Shadow Executive Committee takes most but not all the decisions. Some decisions are still taken by other committees or the Shadow Council itself or by Officers.
  - (c) Meetings of the Shadow Executive Committee are open to the public. Minutes of meetings will be available for public inspection.
- 3.3 The Shadow Council has also established an Overview and Scrutiny Committee to scrutinise the work of the Shadow Executive Committee. Officers and Shadow Councillors must recognise, when giving information and advice to the Overview and Scrutiny Committee, that Officers are responsible to the Shadow Council as a whole.

### **4. Officer advice to Party Groups**

- 4.1 There is statutory recognition of party groups. In accordance with common practice, such groups may give preliminary consideration to matters of Shadow Council business in advance of such matters being considered by the relevant Shadow Council decision-making body. Officers may properly be called upon to support such deliberations by party groups.
- 4.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairperson or Spokesperson prior to a Committee meeting, to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Shadow Council, such support is available to all party groups.

- 4.3 Certain points must however be clearly understood by all those participating in this type of process, Shadow Councillors and Officers alike. In particular:
- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Shadow Council business. Officers must not be involved in advising on matters of party 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 party business are to be discussed.
  - (b) Although party group meetings may form part of the preliminaries to Shadow Council decision making, they are not empowered to make decisions on behalf of the Shadow Council. Conclusions reached at such meetings do not thereafter rank as Shadow Council decisions and it is essential that they are not interpreted or acted upon as such.
  - (c) Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Shadow Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Shadow Council meeting, Committee or Sub-Committee when the matter in question is considered.
- 4.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the Shadow Council. Such persons will not be bound by the Code of Conduct for Shadow Councillors (in particular, the provisions concerning the declaration of interests and confidentiality). For this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Shadow Councillors only meeting.
- 4.5 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group or anyone outside that group.
- 4.6 Any particular cases of difficulty or uncertainty concerning Officer support to party groups, should be raised with the Chief Executive who will discuss the matter with the relevant group leader(s).

## **5. Support services to Shadow Councillors and party groups**

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

## **6. Shadow Councillors' access to information and to Shadow Council documents**

- 6.1 Shadow Councillors are free to approach any Shadow Council area, to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as members of the Shadow Council. This can range from a request for general information about some aspect of the work of the Shadow Council to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the relevant Chief Officer or another senior Officer.
- 6.2 As regards the legal rights of Shadow Councillors to inspect Shadow Council documents, these are covered partly by statute and partly by the common law.
- 6.3 Shadow Councillors have a statutory right to inspect any Shadow Council document which contains material relating to any business which is to be transacted at a Shadow Council, Committee or Sub-committee meeting.

This right applies irrespective of whether the Shadow Councillor is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers.

This right does not however apply to documents relating to certain items which may appear on the private agenda for meetings. The type of information that would be contained within a private meeting agenda would for example be exempt information, such as information relating to employees, contract and industrial relations negotiations, legal advice and criminal investigations.

- 6.4 The common law right of Shadow Councillors is much broader and is based on the principle that any Shadow Councillor has a prima facie right to inspect Shadow Council documents so far as access to the documents is reasonably necessary to enable the Shadow Councillor properly to perform their duties as a member of the Shadow Council. This principle is commonly referred to as the "need to know" principle.
- 6.5 The exercise of this common law right depends therefore upon the Shadow Councillor's ability to demonstrate that he/she has the necessary "need to know". In this respect a Shadow Councillor has no right to "a roving commission" to go and examine documents of the Shadow 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 relevant Chief Officer with advice from Monitoring Officer. In the event of dispute, the question falls to be determined by the Chief Executive.
- 6.6 In most circumstances (e.g. a Committee member wishing to inspect documents relating to the functions of that Committee) a Shadow Councillor'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 Shadow Councillor will normally be expected to justify the request in specific terms.
- 6.7 Whilst the term "Shadow Council document" is very broad and includes, for example, any document produced with Shadow Council resources, it is accepted by convention that a member of one party group will not have a "need to know",

and therefore a right to inspect, a document which forms part of the internal workings of another party group. It does not apply to documents in draft.

- 6.8 Further and more detailed advice regarding Shadow Councillors' rights to inspect Shadow Council documents may be obtained from the Monitoring Officer.
- 6.9 Finally, any Shadow Council information provided to a Shadow Councillor must only be used by the Shadow Councillor for the purpose for which it was provided i.e. in connection with the proper performance of the Shadow Councillor's duties as a member of the Shadow Council.

## **7. Officer/Chairperson/Member of the Shadow Executive Committee Relationships**

- 7.1 It is clearly important that there should be a close working relationship between Members of the Shadow Executive Committee, Chairs of Committees, and relevant senior Officers. However, such Shadow Councillors must still respect the impartiality of Officers and 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 Shadow Councillors and other party groups.
- 7.2 Whilst the Leader, Chair of a Committee (or Sub-Committee) or a Shadow Executive Member 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 statutory Chief Officers and other senior Officers will be under a duty to submit a report on a particular matter. An Officer will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between a Chair or a Cabinet Member and an Officer in this area should be referred to the Chief Executive for resolution.
- 7.3 Finally, it must be remembered that Officers are accountable to their Chief Officer and that whilst Officers should always seek to assist a Chair or a Shadow Executive Committee Member (or indeed any Shadow Councillor), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Chief Officer or in the case of Officers exercising delegated powers, the Shadow Council.

## **8. Correspondence**

- 8.1 Correspondence between an individual Shadow Councillor and an Officer should not normally be copied (by the Officer) to any other Shadow Councillor. Where exceptionally it is necessary to copy the correspondence to another Shadow Councillor, this should be made clear to the original Shadow Councillor. In other words, a system of "silent copies" should not be employed.
- 8.2 Official letters on behalf of the Shadow Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Shadow Councillor. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to be sent in the name of a Shadow Councillor, but this should be the exception rather than the norm. Letters which,

for example, create obligations or give instructions on behalf of the Shadow Council should never be sent out in the name of a Shadow Councillor.

## **9. Public Relations**

- 9.1 Both Officers and Shadow Councillors should follow the Code of Recommended Practice on Local Authority Publicity particularly when issuing press releases.

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