



MEMBER / OFFICER PROTOCOL

Authorised by: MWDA Members
Issued by: AV
Issue No: 02

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1. **INTRODUCTION**

- 1.1 The relationship between Members and Officers is an essential ingredient that goes into the successful working of the organisation. This relationship should be characterised by mutual respect, informality and trust. Nothing in this Protocol is intended to change this relationship. The purpose of this Protocol is rather to help Members and Officers to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this Protocol lies with the Clerk to the Authority.
- 1.2 The Protocol must be read and operated in the context of any relevant legislation and national and local codes of conduct.
- 1.3 "Officer" for the purposes of this Protocol includes all employees of the Authority.
- 1.4 "Member" for the purpose of this Protocol relates to those Councillors who have been nominated to represent their constituent district council on the board of Merseyside Waste Disposal Authority.

2. **ROLES OF MEMBERS AND OFFICERS**

- 2.1 The respective roles of Members and Officers can be summarised as follows:

2.2 Members

Members and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Authority. Their job is to give advice to Members and to the Authority, and to carry out the Authority's work under the direction and control of the Authority and relevant Committees, etc.

Mutual respect between Councillors and Officers is essential to good local government.

Members have four main areas of responsibility:

- (a) determining the policy of the Authority and giving it political leadership;
- (b) monitoring and reviewing the performance of the Authority in implementing that policy and delivering services;
- (c) representing the Authority externally; and
- (d) acting as advocates on behalf of their constituents.

It is not the role of Members to involve themselves in the day-to-day management of the Authority's services.

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2.3 Members with Additional Responsibilities

Where Members have additional responsibilities, their relationships with officers may be different from, and be more complex than, those of Members without those responsibilities and this is recognised in the expectations they are entitled to have. However, such Members must still respect the impartiality of Officers and must not ask them to do work of a party political nature.

2.4 Opposition Members

As individual Members, all Members have the same rights and obligations in their relationship with Officers and should be treated equally. However, where a political group forms an administration it is recognised that the relationship between Officers, particularly those at a senior level in the organisation, and the administration will differ from that with opposition groups.

2.5 Officers

The role of Officers is to give advice and information to Members and to implement the policies determined by the Authority.

In giving such advice to Members, and in preparing and presenting reports, it is the responsibility of the Officer to express his/her own professional views and recommendations. No Member should seek to pressure an Officer to make a recommendation contrary to the Officer's professional view.

Some officers have responsibilities in law over and above their obligations to the Authority and to individual Members. Members must respect these obligations, must not obstruct Officers in the discharge of these responsibilities and must not victimise Officers for discharging their responsibilities.

3. **EXPECTATIONS**

3.1 Members can expect from Officers:

- (a) A commitment to the Authority as a whole, and not to any political group
- (b) A working partnership
- (c) 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, which does not compromise the political neutrality of Officers
- (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

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- (k) Not to have personal issues raised with them by Officers outside the agreed procedures
- (l) That Officers will not use their relationship with Members to advance their personal interests or to influence decisions improperly
- (m) That Officers will at all times comply with the relevant Code of Conduct
- (n) Support for the role of Members as the local representatives of the Authority

3.2 Officers can expect from Members:

- (a) A working partnership
- (b) An understanding of, and support for, respective roles, workloads and pressures
- (c) Political leadership and direction
- (d) Respect, dignity and courtesy
- (e) Integrity, mutual support and appropriate confidentiality
- (f) Not to be put under undue pressure or bullied. Members should have regard to the seniority of Officers in determining what are reasonable requests, having regard to the respective roles of Members and Officers, and the potential vulnerability of Officers, particularly at junior levels
- (g) That Members will not use their position or relationship with Officers to advance their personal interests or those of others, or to influence decisions improperly.
- (h) That Members will at all times comply with the relevant Code of Conduct

3.3 Limitations on Behaviour

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

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

3.4 Support Services for Members

The MWDA provides support services for Members :-

- a. Development and training;
- b. Supplementary ICT support coordinated with Districts as necessary

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Members' subsistence and travel expenses are also paid in accordance with the MWDA scheme and legislation. Members may only claim expenses that they have actually incurred, and that they needed to incur for MWDA activities.

3.5 Member Access to Information

MWDA's Publication Scheme makes a clear presumption in favour of disclosure of information.

Information requested by Members should be supplied to them unless there are good reasons for withholding it in accordance with this Protocol, and those reasons are given in writing and copied to the Monitoring Officer. Information requested should be supplied accurately and quickly. In a few instances, the need to meet legal constraints, and to protect the Authority's and the public interest, may lead to contention.

The following paragraphs set out some guidance on how to resolve those issues.

They describe:-

- The circumstances in which Members have a legal right to access the information
- The limits to those legal rights
- The process that will determine a dispute

Under the "need to know" principle, Members are entitled to the information that they reasonably require to enable them to discharge their functions as Members. They are not entitled to go on fishing expeditions through Authority files. Statute law and the Constitution give Members rights of access to certain Authority documents.

Members do not have a general right to require Officers to carry out research or administrative work to provide information, apart from Officers whose job is to provide such support to Members. Unless they have authority to do so by virtue of their specific role, they cannot require resources to be reallocated for work of this kind.

Members are entitled to publicly accessible information, and personal information about themselves, like any other member of the public (for example under the Data Protection Act or the Freedom of Information Act). Members may be authorised by a member of the public to access information on their behalf, but the authority must be in writing clear and explicit.

An Officer may require a Member to undertake that the information will be treated as confidential before supplying it, and may refuse to supply it if the undertaking is not given. Reasons for confidentiality should be given in writing and subject to the Right of Appeal to the Monitoring Officer.

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Information provided by Officers should be prompt and accurate.

Any Member who is dissatisfied with the decision to withhold information should complain to the Chief Executive, who may take legal advice. If the Member disagrees with the decision of the Chief Executive they can place the matter before the Authority, or raise it with the District Auditor.

3.6 Confidentiality

Members and Officers must keep confidential information and papers confidential. This means not sharing them with anyone.

MWDA papers marked “exempt” and “confidential” are to be treated as confidential. Other information may be confidential because it is against the Authority’s or the public interest to disclose it or because of the circumstances in which it was obtained.

Information about someone’s private or business affairs will normally be confidential, as will their correspondence with the Authority.

Officers should make it clear to Members if they are providing them with confidential information. If a Member is uncertain about whether or not information might be confidential, he or she should seek guidance from the Monitoring Officer, and in the meantime treat it as confidential.

If a Member receives confidential information but think it should be released on a “whistle-blowing” basis in the public interest, he or she must check with the Chief Executive, Monitoring Officer or Clerk or the appropriate external Regulatory Authority before deciding to release it.

3.7 Correspondence

Only the Chair and Deputy Chair can write official letters on behalf of the Authority (that is to say a letter intended or appearing to be written on behalf of the Authority as a body, as opposed to on behalf of an Individual Member) although generally Officers will handle correspondence of all kinds. Members writing official letters on behalf of the Authority must use a style which distinguishes this from the letters written in their personal or political capacities. Other Members’ letters are written in personal or political capacities.

A Member can ask an Officer to keep their correspondence private. If the Officer cannot do this (because they are under an obligation to someone else, or under the Constitution, or because the Authority ought to respond to the issue raised in a different way) they must make this clear straight away. Otherwise, the Officer must observe confidentiality.

Unless correspondence is private, Officers may copy letters of general interest to the relevant Executive Member or Committee Chair. They should always state that they are doing this on the letter itself. Officers should never copy Members' correspondence to other Members secretly.

Officers should be aware that Members may circulate their letters to the public unless requested not to do so.

If an Officer needs to reproduce and communicate an oral conversation with a Member in written form, he or she will copy the correspondence to the Member concerned as a matter of courtesy.

Officers should respond to correspondence from Members within 5 working days.

Reference in this section to correspondence includes all e-mails.

3.8 Staffing Matters

Members may be formally involved in staff recruitment, disciplinary and grievance issues as a member of a panel. That apart, Members should not become personally involved in such matters. Officers should not raise individual personal issues with Members concerning their jobs.

If a Member received a "whistle blowing" disclosure from an employee he or she should pass it on in accordance with the Whistle Blowing Policy.

3.9 Authority Property

Individual Members do not have a general right to visit Authority premises or land that is not open to the public.

Members may have a "need to know" what is happening on Authority premises in the same way as they have access to other information. This will entitle them to visit premises for specific purposes such as scrutiny. If Members do visit premises, they should normally make themselves known to the person in charge.

3.10 Attendance at Meetings

Members may wish Officers to attend public meetings to provide them with support. This is subject to the certain principles set out in the Code of Conduct for Employees and summarised below:-

- Officers cannot become involved in political debate. This includes public meetings at which Members are not present.

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- Officers will be able to explain particular proposals and issues but technical Officers are not expected to deal with issues outside their area of knowledge.
- Officers will not normally attend such meetings after the publication of notification of election.
- Attendance will be approved by the Chief Executive or appropriate Director in accordance with corporate guidelines if any are set.

Officers may be invited to public meetings by local people or organisations. If so, they should consider whether any Members, especially Ward Members, should be notified.

3.11 Avoiding Political Publicity

Literature and other material produced by any Officer or anyone using MWDA facilities:-

- Must not promote or denigrate a political party
 - e.g.("Councillor says Conservatives have got it wrong" is not acceptable).
- Must not promote or denigrate policies that are clearly those of a political party
 - e.g.("Chairman says Government should give councils more money for Waste" is acceptable, whereas " Member says Labour should raise taxes to spend more on waste" is not).
- Must not emphasise the political group or party to which a Member belongs by use of large font, unnecessary repetition, design features etc. A single incidental, low-key reference to political party or group may be permissible. Anything else will not be.
- Must not include slogans, strap lines, logos or other design features identifiable with a political party.
- Must be "objective, balanced, informative and accurate" and avoid oversimplification and sloganising.
- Must not consist of campaigning or persuasive material, as opposed to informative material, except where this is a legally acceptable Authority function ("Register for HWRC Permit" is acceptable, but "Ban fox hunting" is not).
- May only contain quotes from, or photographs of, Members, insofar they are relevant to their roles as Members. Chair, Deputy Chair or Group Leaders and Opposition Spokespersons are therefore in a different position from others.

There should not normally be a problem providing support to Members attending to District matters, such as responding to individual constituent's complaints and enquiries, helping to solve individual problems, or dealing with local waste issues.

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4. **POLITICAL GROUPS**

4.1 The operation of political groups is an integral feature of Local Government, and such political groups can have an important part to play in the development of policy and the political management of the Authority. It is appropriate that the Authority support the effective operation of political groups, when formed, but their operation can pose particular dangers in terms of the impartiality of Officers.

4.2 Reports

Political groups may request the Clerk to prepare written reports on matters relating to the Authority for consideration by the group.

Officer reports to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Authority. Reports will not deal with any political implications of the matter or any options, and Officers will not make any recommendation to a political group.

Where a report is prepared for a political group, the Clerk will advise all other groups that the report has been prepared and will provide a copy of that report to any group upon request.

4.3 Officer Attendance

- a) Any political group may request the Clerk to attend a meeting of the group to advise on any particular matter relating to the Authority.
- b) The Clerk may arrange for the attendance of a representative in his/her stead, or may decline to attend or to provide a representative where he/she is of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.
- c) Officers' advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Authority. Advice will not deal with any political implications of the matter or an option, and Officers will not make any recommendation to a political group.
- d) Where an Officer attends a political group meeting, the Clerk will advise all other groups that the Officer has attended and the subject upon which he/she has advised.
- e) Officers will respect the confidentiality of any matter which they hear in the course of attending a political group meeting.

5. **WHEN THINGS GO WRONG**

5.1 Public Criticism

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Members and Officers should not criticise or undermine respect for the other at Authority Meetings or at any other meeting they attend in their capacity as a Member or Officer.

5.2 Procedure for Officers

From time to time the relationship between Members and Officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Members, Officers will have the recourse to the Grievance Procedure or to the Authority's Monitoring Officer as appropriate to the circumstances.

In the event of a grievance or complaint being upheld, the matter will be referred to the Clerk, who, having advised the Chair and the appropriate group leader, will decide on the course of action to be taken.

5.3 Procedure for Members

In the event that a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should not be raised at any meeting held in public, instead the matter should be raised with the Chief Executive. Where the Officer concerned is the Chief Executive, the matter should be raised with the Clerk.

If the matter cannot be resolved informally, it may be necessary to invoke the Authority's Disciplinary Procedure.