

Appendices:
A. Audit Report
B. Draft Protocol



STANDARDS COMMITTEE REPORT

Report Title	MEMBER / OFFICER PROTOCOL
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	30 September 2019
Policy Document:	YES
Directorate:	Borough Secretary and Monitoring Officer

1. Purpose

- 1.1 The purpose of this Report is to provide the Committee with an update on implementation of the recommendations in the report commissioned in relation to the Council's Protocol on Member / Officer Relations.
- 1.2 At its meeting of 25 March 2019 Standards Committee considered the report prepared by BDO Consultants in relation to the Council's Protocol on Member / Officer Relations and which made a number of recommendations for improving that document. Committee agreed to receive a further report once an Action Plan in relation to implementing the recommendations in that report had been produced and agreed.

2. Recommendations

- 2.1 That Committee consider the attached draft revised Protocol and comment on the content accordingly.
- 2.2. Members agree to appoint a Working Group comprising Officers and Members to review the recommendations in the Audit report along with the draft revised Protocol with a view to making further revisions to the draft Protocol for consideration by Committee.
- 2.3 That Committee agree to receive a further report at its December meeting with a view to adoption of a revised Protocol incorporating such amendments as the Committee may consider appropriate having regard to the report of the Working Group.

3. Issues and Choices

3.1 Report Background and Issues

- 3.1.1 In late 2018 the Borough Secretary commissioned an external audit of the Council's Protocol on Member Officer Relations. The audit included interviews with a number of Officers and Members to obtain their views on Member / Officer working relations; a survey of Officers and Members to establish whether the roles and expectations set out in the Constitution were met; a revision of parts of the Council's Constitution and comparison of these with those of other authorities; and, attended a meeting of the Executive Programme Board to assess its working practices. A copy of the Audit Report is attached as Appendix A.
- 3.1.2 The Audit Report made a number of recommendations which for the purpose of this Committee's role can be summarised as, revise the Protocol; convene a Member / Officer Working Group to contribute to the revision; launch a training programme to raise awareness of the revised Protocol; and ensure that the revised Protocol contains a full description of Members' role on the Council.
- 3.1.3 Following the report to Committee in March a draft revised Protocol has been produced for consideration by Committee. The approach taken was first to address some ambiguities in the former version and ensure use of consistent terminology and, secondly to add further detail of the types of acceptable and unacceptable behaviour as set out in the Audit Report.
- 3.1.4 Whilst some amendments have been made in relation to the descriptions of the roles of Officers and Members it is difficult to make these exhaustive and signposting to the parts of the Constitution which amplify these roles is as effective as attempting to reproduce them in the Protocol. A copy of the draft amended Protocol is attached as Appendix B.
- 3.1.5 It should be noted that, notwithstanding the suggestion in the Audit Report that other authorities have mechanisms for enforcing breaches of the Protocol, any allegation that an elected or co-opted Member has breached the Protocol may only be dealt with under the mechanism for dealing with allegations that a Member has breached the Code of Conduct and, should such an allegation be made, may only progress if the alleged breach would also amount to a breach of the Code.
- 3.1.6 Committee is invited to consider the draft Protocol and make such comments as it sees fit.
- 3.1.7 Committee is also requested to appoint a Working Group consisting of Officers and Members to work on development of the draft Protocol. It is believed that in order to ensure that contributions are comprehensive, members should include cabinet Members, non-cabinet Members, co-opted Members, senior Officers and junior Officers.

3.2 Choices

3.2.1 Members may decide to adopt the recommendations above in order to progress the actions suggested in the Audit Report.

3.2.2 Members may decide not to adopt the recommendations above if they do not wish to progress the actions suggested in the Audit Report.

4. Implications (including financial implications)

4.1 Policy

4.1.1 This report does not have any direct policy implications.

4.2 Resources and Risk

4.2.1 This report does not have any direct resource implications.

4.3 Legal

4.3.1 As set out above, action may only be taken against a Member where they are alleged to have breached the Code of Conduct adopted by the Council under the provisions of Part 1 of the Localism Act 2011. When such a complaint is made it must be dealt with in accordance with the *Arrangements for dealing with allegations of breaches of the Northampton Borough Council Members' Code of Conduct and of Codes of Conduct adopted by Parish Councils* which are contained in the Constitution for the purpose of implementing those provisions of the Localism Act 2011.

4.3.2 Case law in 2018 has made clear that it is not permissible to have a 'dual system' of considering allegations against Members by using an authority's grievance procedure and, should such a course of action be taken, it will not bind the Member concerned.

4.3.3 Accordingly, Committee should note that action may only be taken against a Member in relation to any alleged breach of a revised Protocol if the allegation concerned would also be a breach of the Council's Code of Conduct.

4.4 Equality

4.4.1 There are no direct equality and diversity implications arising from this report.

4.5 Consultees (Internal and External)

4.5.1 Not applicable.

4.6 Other Implications

4.6.1 None.

5. Background Papers

- 5.1 Arrangements for dealing with allegations of breaches of the Northampton Borough Council Members' Code of Conduct and of Codes of Conduct adopted by Parish Councils.

APPENDICES

A. Audit Report - BDO Consultants

B. Draft revisions to Protocol

**Francis Fernandes
Borough Secretary and Monitoring Officer**