

Devon and Cornwall Police Authority Protocol for Member and Officer Relationships

Interpretation:

“Authority” means the Devon and Cornwall Police Authority

“Member” means a member of the Devon and Cornwall Police Authority

Officer means an officer (paid employee) of the Devon and Cornwall Police Authority

1. Introduction

- 1.1 This protocol is a guide for Members and Officers of the Police Authority in their relationships with one another. In many ways it is no more than a statement of working practice and convention but as a written document it is intended to promote clarity.
- 1.2 The protocol will be kept under review and amended as necessary.

2. Member / Officer Relations

- 2.1 The Authority Code of Conduct (Part 1 - General obligations) states

“ A member must –

- (a) promote equality by not discriminating unlawfully against any person;
- (b) treat others with respect; and
- (c) not do anything which compromises or which is likely to compromise the impartiality of a police officer or those who work for, or on behalf of, the authority. “

- 2.2 Members and Officers share a responsibility to work together to reach decisions in the interests of the Authority and the area it serves.
- 2.3 Officers serve the authority as a whole and act in a politically neutral way in giving professional advice and general support to all Members.
- 2.4 All dealings between Members and Officers should observe reasonable standards of courtesy and neither party should seek to take advantage of their position.
- 2.5 If a Member has reason to complain about the conduct or performance of an Officer the complaint should be made personally to the Chief Executive.
- 2.6 If an Officer is concerned about a Member’s conduct it should be brought to the attention of the Chief Executive, who will take appropriate action which could include bringing the matter to the attention of Chairman of the Authority or referring the matter to the Standards Committee.
- 2.7 The partnership of Members and Officers depends on mutual trust, respect and the understanding of respective roles and responsibilities. Care should be taken to ensure that interactions cannot be open to accusations of bias, favouritism or political partiality.

3 Advice and Information

- 3.1 Members are entitled to seek advice. Officers will do their utmost to assist members with their information and advice needs, but may refer Members to another Officer or officer of the Constabulary who is better able to give the advice / information required.
- 3.2 The Authority wishes to conduct its business as openly as possible and give Members maximum access to information and documents to enable them to discharge their role as Members of the Authority effectively. Requests for information can range from general information about an aspect of the authority's work to specific requests on behalf of a member of the public.

3.3 Members of the authority are entitled to access

- (a) all information which is publicly available and
- (b) other information which it is reasonable for members to access in pursuit of their roles.

If Officers have any doubts about releasing sensitive information they are entitled to seek confirmation from the Chief Executive (who may consult Chairman of the Authority); Members should respect the right of Officers to seek clarification regarding the release of information.

3.4 Officers will co-operate by making information available promptly and whenever possible in accordance with the timescale requested by the member. If it is not possible to provide the information within the timescale the member will be informed and a new realistic deadline agreed.

3.5 The Authority's Code of Conduct (Part 2) states

" A member must when reaching decisions have regard to any relevant advice provided to him by

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- (a) the authority's chief finance officer acting in pursuance of his duties under section 114 of the Local Government Act 1988 (13); and
- (b) the authority's monitoring officer acting in pursuance of his duties under section 5(2) of the Local Government and Housing Act 1989 (14)."

3.6 The legal rights of Members to inspect documents held by the Devon and Cornwall Police Authority are covered partly by statute and partly by common law. Members have a statutory right to inspect any Police Authority document which contains material relating to any business which is to be transacted at a Police Authority or meeting or a committee or sub committee of the Police Authority. This right applies not only to reports, which are considered at a meeting, but also to any relevant background papers. This right, however, does not extend to documents relating to items containing "exempt information". In this context exempt information means:

- Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office holder, former office holder or applicant to become an office holder, of the Authority.
- Information relating to a particular employee, former employee, or applicant to become an employee of, or a particular officer, former officer or applicant to become an officer appointed by:-
 - (a) a magistrates' court committee, within the meaning of Section 19 of the Justices of the Peace Act 1979 (1979 C55).
 - (b) a probation committee appointed under paragraph 2 of Schedule 3 to the Powers of Criminal Courts Act 1973 (1973 C62).

- Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the Authority.
- Information relating to any particular applicant for, or recipient or former recipient of any service provided by the Authority.
- Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the Authority.
- Information relating to the adoption, care, fostering or education of any particular child.
- Information relating to the financial or business affairs of any particular person (other than the Authority).
- The amount of expenditure proposed to be incurred by the Authority under any particular contract for the acquisition of property or the supply of goods and services.
- Any term proposed or to be proposed by or to the Authority in the course of negotiations for the contract for the acquisition or disposal of property or the supply of goods or services.
- The identity of the Authority (as well as of any other person, by virtue of the paragraph above relating to financial and business affairs) as the person offering any particular tender for a contract for the supply of goods or services.
- Information relating to any consultations or negotiations or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office-holders under, the Authority.
- Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with:-
 - (a) any legal proceedings by or against the Authority
 - (b) the determination of any matter affecting the Authority, (whether, in either case, proceedings have been commenced or are in contemplation).
- Information which, if disclosed to the public, would reveal that the Authority proposes:-
 - (a) to give under the enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
- Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- The identity of a protected informant.

3.7 The common law right of members is much broader, and is based on the principle that any Member has a right to inspect Authority documents so far as his / her access to the document is reasonably necessary to enable the Member properly to perform his / her duties as a member of the Authority. This principle is commonly referred to as “ the need to know” principle.

3.8 The exercise of this common law right depends, therefore upon the Member’s ability to demonstrate that he / she has the necessary “need to know”. The Courts have held that members have no right to a “roving commission” to go and examine documents. Mere curiosity is not sufficient. Where a question arises as to the Member’s need to know, the following procedure will apply:-

- (i) The Chief Executive will consider in consultation with the Chairman of the authority whether the request is reasonably in furtherance of the Member’s need to know. If it is then the document will be produced for the Member’s inspection.

- (ii) If the request raises any legal issues, the Chief Executive and the Chairman of the Authority will take legal advice.

3.9 Both Members and Officers must note that where information of a possible defamatory nature is contained in a document, inspection of which is permitted, such inspection is allowed on the clear understanding that neither the document nor its content should be passed on.

4. Meetings

4.1 Agendas for meetings of the Authority and its Committees and sub committees will be assigned a meeting administrator. The Meeting Administrator will prepare the Agenda, on behalf of the Chief Executive, in consultation with the appropriate Chairman.

4.2 Any Member may ask for an item of business to be included on the relevant agenda and for a report to be provided on the matter. As a matter of courtesy, Members should consult with the appropriate Chairman before making such a request to the meeting administrator.

4.3 An item of business will only be treated as urgent if it has arisen since the dispatch of the Agenda and to delay its consideration would disadvantage the Authority or cause it serious difficulty. The Chairman's ruling is binding on whether an item is urgent and is not open to discussion or debate. Any request for urgent business will be discussed by the meeting administrator with the Chairman and the papers will be dispatched to Members as quickly as possible once the Chairman's approval has been given.

5. Support to Members

5.1 The Authority's Code of Conduct Part 1 para 5(b) states:

“ A member -must, when using or authorising use by others of the resources of the authority –

- (i) act in accordance with the authority's requirements; and
- (ii) ensure that such resources are not used for political purpose unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed. “

Such resources must therefore only be used for Police Authority business and never in connection with party and political campaigning activity or for private purposes.