



Leicester
City Council

**Standards Committee
Procedures Working Party
Council**

**30 June 2004
15 June 2004
1 July 2004**

POLITICAL CONVENTIONS

Report of the Town Clerk

1. PURPOSE OF REPORT

- 1.1 To propose changes to the Conventions, arising from experience since the last review.

2. SUMMARY

- 2.1 The Conventions help Members and Officers to apply common standards of conduct and probity. They provide day-to-day ground rules for relationships between Members and between Members and Officers. This helps Officers to be balanced and objective and helps Members to observe the general principles and model Code of Conduct.
- 2.2 Leicester has led in this area since its first Conventions in 1998. We were influential in such local standards being adopted as a component of local authority Constitutions. The Conventions are now part of our Constitution and are the local Code of Conduct, which Members agree to observe when they accept office. Changes are made by the full Council on the recommendation of the Procedures Working Party and Standards Committee.
- 2.3 All Members have been given a copy of the Conventions, which are also on the Intranet. Copies will be available at the meeting.
- 2.4 Departments, the Procedures Working Party and the Whips have been asked to suggest changes. Many of the proposals have arisen from practical experience. A table of proposed changes is attached together with the views of the Procedures Working Party from their meeting on 15 June 2004.
- 2.5 Also attached is a proposed new Convention on Councillor involvement in Property discussions. This was circulated at the Working Party's meeting, but they have not yet formulated a view on it.

2.6 When the changes are approved, the updated Conventions will be incorporated into training and induction programmes.

3. FINANCIAL & LEGAL IMPLICATIONS

3.1 Failure to observe the Conventions could give grounds for a complaint against a Member to the Standards Board or for disciplinary action against an Officer.

3.2 There are no financial implications.

4. RECOMMENDATIONS

Guidance is requested on the changes to be recommended to the Council.

5. AUTHOR

Tom Stephenson
Town Clerk
0116 2526300

Convention		Issue	Suggested Change	Views of Procedures Working Party
1.3	Officers must be politically neutral at work.	How to deal with suspected officer conflict of interest or inappropriate conduct.	The attached protocols were developed to address some issues at a SPAR meeting and are proposed for general adoption.	Recommended that the proposed changes be made and that suitable training be provided for Chairs, including ensuring they have the information and skills to apply the Conventions. Committee legal advisors are asked to intervene if the meeting appears to be staying beyond the proper boundaries.
1.5	Respect and courtesy between Councillors and Officers.	Remarks causing offence during Council debates.	The attached protocols were approved by the Whips and adopted by the Standards Committee. It is proposed that they be incorporated into this Convention.	Agreed that personal attacks on officers or Councillors were unacceptable. The protocols were referred for further consideration by Political Groups.

Convention		Issue		Suggested Change	Views of Procedures Working Party
4.5	Guidance on organising Scrutiny business.	Role of the Triumvirate.	i	The Convention provides that a majority of the Triumvirate guides business outside meetings, (changing dates, agenda items, whether to ask for a report etc). The full Committee can still decide these matters when it meets. There have been some issues around this, in particular where a Scrutiny Member requests an agenda item under Convention 4.4 and the Triumvirate are asked ahead of a Committee decision, whether a report should accompany this. Is any change needed?	Recommended that Convention 4.4 be clarified to the effect that the Triumvirate be notified of a Member request for an item, and if they agree, a report be included on a future agenda: otherwise, it will be included as an agenda item for Committee determination.

Convention	Issue	Suggested Change	Views of Procedures Working Party
	Attendance by the Cabinet Link	<p>ii Changing Committee dates is also guided by a majority of the Triumvirate, but there has been some inconvenience for other Members. Is any change needed and should there be stricter avoidance of Mondays and Fridays?</p> <p>iii Clarification has been requested to confirm that Cabinet Members should avoid appearing to stifle or influence the proper course of Scrutiny through off agenda communications.</p>	<p>Recommended that Mondays & Fridays be avoided for Scrutiny Committees as far as practicable.</p> <p>No change to the Convention is required, but Cabinet are asked to discuss the issue raised.</p>

Convention		Issue	Suggested Change		Views of Procedures Working Party
			iv	A Convention has been suggested to confirm that a Councillor who has been consulted on an officer decision, is accountable to Scrutiny for the view expressed in that consultation.	Proposed change recommended.
4.6	Chairing of Scrutiny Committees	Clarity as to the role of each person present.		Various points of clarification have been suggested:	No change to the Convention is required apart from clarification. Recommended that its implementation be addressed in training for Scrutiny Chairs.
			i	Ensuring that everyone's role (including co-opted members and visitors) is clear to the public and substitute Members.	
			ii	Seating arrangements, which make clear who are Members and who are visitors, (who should stay 'at the table' only for their items).	

Convention		Issue	Suggested Change		Views of Procedures Working Party
			iii	Ensuring a fair balance of contributions across political groups, co-opted Members and visitors.	
5.1	Development Control decisions.	Updates to the Code of Practice (Appendix 3) to reflect current practice and committee structures.		Technical changes to reflect the current committee structure.	<p>Recommended the proposed changes be made except:</p> <ul style="list-style-type: none"> • Proposal 23: All Ward Councillors should be able to speak on an item and there should be no time limit. The Chair should control timing on the basis of what is reasonable in the circumstances. • Procedure for departing from an officer recommendation is supported in principle, but subject to consultation with Development Control Committee Members and a further report to the Working Party on how this would work in practice. Also recommended that, once agreed, this be included in Councillors' development control training.

Convention	Issue	Suggested Change		Views of Procedures Working Party
		19	Add that written representations will not be tabled at the meeting, but will be circulated in advance.	
		23	Add that Members not on the Committee will sit in the designated place, present for up to 3 minutes and retire before debate. Members with the same view should agree a spokesperson.	
		25	Clearer procedure when Members wish to depart from the officer recommendation. Departures must be moved, with planning reasons given, and seconded before a vote is taken on the officer recommendation.	

Convention		Issue	Suggested Change	Views of Procedures Working Party
7.4	Staff lobbying Councillors	Whether this is too restricting of employees.	On 17 February, Procedures Working Party recommended:	Recommended that the existing Convention be retained, but applied with appropriate sensitivity.
			<ul style="list-style-type: none"> i Clarification in respect of employees lobbying on issues that affected them as citizens, including budgetary matters, as long as appropriate channels were used and not those which are not available to the general public. ii Continue the restriction on lobbying on employee matters. 	

Convention		Issue	Suggested Change	Views of Procedures Working Party
9	Election periods	Attendance at events with a potentially politically dimension, when the Council needs to be represented as a stakeholder.	A Ministerial visit during the last general election period gave rise to the attached guidance. It is proposed that this is incorporated into the Conventions.	Recommended that the guidance be adopted, subject to adding the work "party" before "political" in paragraph 5. Also recommended that there be a new Convention dealing with the use of Council buildings during election periods. This should include a prohibition of the Town Hall and New Walk Centre for political meetings (other than the normal private meetings on Council business). It should (subject to prior bookings) allow the Town Hall Square, (except for the Town Hall concourse), to be used for political meetings.
	Property discussions and negotiations	Ensuring that negotiations are not inadvertently blown off course and that Councillors are protected from inappropriate pressure and unwarranted criticism.	Proposed Convention attached.	Discussion was deferred to the next meeting as the item was only tabled on the day. Guidance was requested on the procedure for late bids for Property disposals.

CONVENTION 1.3

1. Legitimate Scrutiny should be separated from matters not within the Committee's Terms of Reference:

- Scrutiny of policy, the way it is developed and the way it is implemented are legitimate scrutiny activities
- Questions of improper behaviour by a Member or an Officer should not be discussed at Committee, whether in Part A or Part B. This is because there are specific procedures for addressing such questions and the individuals concerned have the basic right to the proper procedure. Prior discussion at a committee could prejudice fair consideration of the matter.

2. Whilst legitimate scrutiny may be pursued robustly where the need arises, courtesy is the expected norm and any robustness must be proportionate in all the circumstances:

- The points of Member conduct agreed by the Whips (attached) should be observed
- Convention 4.6 states:

“The Chair is expected to conduct Scrutiny Committee meetings so as to ensure:

- *The basis of any participation by non-Members of the Committee is made clear at the outset (for example, question and supplementary statement or, participation in debate):*
- *The questioning of Cabinet Members, Officer and others is properly structured, and conducted in a courteous, seemly and constructive manner;*
- *Questions are properly directed to the Cabinet Lead (for example, justifying policy) or Director (for example, progress with implementation), inviting both to attend where necessary”.*

3. Allegations of improper conduct by individuals must be avoided:

- Such allegations cannot be pursued in the meeting and are likely to be embarrassing or damaging in themselves.
- Such remarks can be defamatory. There is not necessarily a defence to legal action if remarks are made on an inappropriate occasion against advice.
- An allegation, which indirectly points at someone, may well be equivalent to naming that person.

4. **Care must be taken to avoid inappropriate issues entering the agenda and, when they arrive unexpectedly, discussion should be stopped:**
 - Scrutiny Procedure Rules, 8(ii) (j) and 9 (x) (b) prohibit questions and petitions “*in relation to an individual’s particular circumstances*”. This prevents issues of individual conduct being raised, whether directly or, by identifying one or more individuals by implication.

5. **Challenging whether an individual should declare an interest, should be done off-agenda:**
 - Advice on any concerns should be taken outside the meeting and referred to the appropriate procedure.
 - Advanced notice should be given to the Committee Clerk so that the Chairman can take legal advice on how to deal with the matter in the meeting

 - Whether a declaration is made is a matter for the individual concerned. Subject to legal advice (obtained off agenda) challenging a non-declaration at the meeting, could amount to an allegation of improper conduct and such challenge should therefore be made outside the meeting through the appropriate procedure.

6. **Prior employment is not automatically a declarable interest. Nor is it necessarily inappropriate for an Officer to advise Members on the balance between services delivered by his or her directly managed staff and services commissioned from external sources:**
 - Dealing with the external/internal balance is now the norm for most managers as part of their core responsibilities.

Responsibilities:

7. **It is the role of the Chair to ensure these protocols are applied.**
 - The issue can sometimes be rather technical so the Town Clerk has asked the Committee’s legal adviser and Clerk to intervene if necessary to ensure that any procedural issue is addressed in the right way.

 - It may be appropriate for the Chair to adjourn briefly to take advice, provided the reasons for his or her decision are explained when the meeting resumes.

MEMBER CONDUCT AT MEETINGS
AS CONSIDERED BY THE STANDARDS COMMITTEE –24 MARCH 2004

Key Principles

Political interaction is frequently the catalyst for public engagement. It is also perhaps the most powerful of the checks and balances which are inbuilt into local authority policy development and service delivery. It is, therefore, not surprising, indeed it should be expected and encouraged, that such interaction should be both robust and challenging.

Such an ethos, however, also requires a strong, clear and delineated set of principles in which to operate. To do otherwise would undermine the unique legitimacy of the local democratic process.

Note: To apply to all meetings within the Council irrespective of size (i.e. Council, Cabinet, Committees, Panels or Working Groups involving Elected, Co-opted or Independent Members).

1. Members should have due respect for the local democratic process in which they are engaged and the particular meeting in which they are involved.
2. Self regulation by Members is the best approach and is far preferable to waiting for the Lord Mayor's/Chair's intervention before moderating their behaviour.
3. Lively debate and good humoured banter is to be encouraged and not stifled.
4. Members and officers should, at all times, respect the other's role and responsibilities.
5. All those present should show due respect for the chair of the meeting.
6. Comments of a personal nature against Members, officers or members of the public are seen as generally unacceptable.
7. If offence is taken to a personal remark, an immediate apology and retraction at the time is often all that is needed.
8. Extreme language, including that which is abusive, defamatory or offensive, should be avoided.
9. All speeches should be channelled through the Lord Mayor/Chair, with conversations directly to other Members across the meeting being avoided.
10. The noise levels from conversations within the meeting should be kept to a minimum and certainly not at a level which is disruptive and prevents others hearing the debate.
11. Members should avoid, including the appearance of, taking a lead from Members or others in the public gallery.

12. Councillors should not play to the gallery in such a way that would incite member of the public to behaviour which may lead to them being ejected and shall not direct unacceptable comments to members of the public sitting in the gallery.
13. Members should give the other the courtesy of presenting their comments without continual interruption such that it is disruptive to the good conduct of the meeting.

VISIT BY RIGHT HON DAVID BLUNKETT, MP
THURSDAY 10 APRIL 2003

1. The Right Hon. David Blunkett, M.P., is to visit the New Parks area of the City on Thursday, 10 May 2003.
2. The (City Council) venue has been booked by Patricia Hewitt, M.P., at a commercial rate
3. Both sessions are by invitation only.
4. One of the sessions has invitations extended to a range of stakeholders within the New Parks area. Because of the City Council's role, this includes three City Council officers.
5. Having regard to the current election period, in recognising the City Council stakeholder role in the area, both by Members and officers, the following guidance is put forward for City Council officers to adhere to:-
 - Ensure that all contributions to any discussion are factually based and are based on approved City Council policy.
 - Do not express opinions or view which may be perceived as containing a political dimension.
 - Do not engage in any media activity relating to the event, i.e.
 - do not participate in any TV or radio interviews
 - do not give any comments to the media
 - ensure you are not included in any media photographs (still or TV) as this may subsequently be used in party political material

PROPOSED CONVENTION RELATING TO COUNCILLORS INVOLVEMENT IN PROPERTY DISCUSSIONS

This Convention must be read in conjunction with the Council's Framework for the Disposal of Property (attached). It is intended to protect Councillors as well as the Council's financial and probity interests.

Commercial negotiations, particularly those involving property, are an area of special sensitivity where the Council's public service objectives may conflict with the profit motivation of the other party to the negotiation.

There will be occasions when Councillors can play an invaluable part in property discussions, for example, expressing to the other party the commitment of the Council to a particular project, or to the political constraints within which the transaction occurs. However, any involvement must be carefully managed to avoid pitfalls, such as pre-judging negotiations or planning issues. Councillors also need to avoid circumstances where their comments can later be misrepresented.

CONVENTIONS

1. Councillors' involvement in property discussions should be transparent and take place after officer briefing. The officer(s) should be present and the meeting should be properly recorded;
2. Councillors should confine their discussions to overall policy and the direction to be taken, leaving professional negotiation for officers to pursue separately;
3. No concession should be made unless this has been identified beforehand, after due briefing and consultation. Proposals should otherwise be taken away for consideration.
4. Informal meetings with the private parties or their agents should be avoided if they could be misconstrued, and any meeting should be declared to the relevant officer;
5. Any party making a representation regarding a property negotiation must be referred to the relevant officer and the party accordingly advised;
6. Formal decisions should be referred to the Council's agreed processes;
7. Confidentiality of commercial information and sensitivities must be maintained to ensure that the integrity of property acquisition or disposal and that maximum value is obtained.