

# Item no. 6

Report to: **East Durham Homes Ltd Board**  
Date: **23 September 2004**  
Report of: **Director of Community Housing Services**  
Subject: **Councillor Protocol**

## **1. Purpose of the report**

- 1.1 To approve the adoption of the protocol for dealing with Councillor enquiries, attached to this report.

## **2. Background**

- 2.1 Councillors have a vitally important role to play as representatives of their wards and communities. Employees need to recognise their duty to support Councillors in this role.

Employees should respond positively to requests from Councillors, in their ward role, for advice or for assistance in dealing with a ward matter.

However, It is vitally important that Councillors' rights of access to information and assistance on housing management services delivered by the company are consistent with Data Protection legislation etc.

## **3. Consultation**

- 3.1 Consultation has taken place with the Chief Executive and Directors within East Durham Homes, the Board of Directors of District of Easington Council.

## **4. Proposal**

- 4.1 In order to ensure both a positive relationship and compliance with Data Protection legislation a protocol has been produced.

## **5. Policy, Legal, Financial and Risk Implications and Impact on Users**

- 5.1 Policy Implications

There no known policy implications.

- 5.2 Legal Implications

The protocol must have regard to Data protection and electoral legislation.

- 5.3 Financial Implications

There no known financial implications.

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## 5.4 Risk Implications

A risk assessment has been completed and the necessary actions required to manage the risks have been or will be implemented.

## 5.5 Impact on Users

There should be no detrimental affect on service provision to customers by adopting the protocol.

## 6. Recommendations

- 6.1 It is recommended that the attached protocol for dealing with Councillor enquiries be approved.

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## **EAST DURHAM HOMES PROTOCOL FOR DEALING WITH COUNCILLOR ENQUIRIES**

### **Introduction: The Underlying Principles**

The purpose of this protocol is to guide employees of East Durham Homes ('the company') and members of District of Easington Council ('Councillors') in their dealings with one another.

The protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues that most commonly arise.

On 1st April 2004 East Durham Homes took over the management of Council Houses in Easington District. East Durham Homes is a separate organisation working at 'arms length' to the Council. It is important that this is appreciated, as the Housing Inspectorate will expect this. It is therefore essential that arrangements between the Councillors and staff within East Durham Homes reflect this 'arms length' arrangement. It is important that the transition occurs as smoothly as possible and this is the main reason for the production of the protocol.

The Management Agreement provides that the company shall provide all relevant information that may be required by the Council in order that the Council can act fairly, properly and in accordance with its statutory obligations. Also, it states that the Company shall liaise with Council Members, Member of Parliament and other elected representatives in such a manner as shall be reasonably required from time to time by the Council's Representative (a nominated officer of the Council)

### **Councillors' Access to Information**

The company acknowledges the right of Councillors to inspect documents if access to those documents is reasonably necessary to enable Councillors properly to perform their duties.

Members should demonstrate that they have a 'need to know' basis.

Company information provided to Councillors must only be used by them for the purpose for which it was provided, namely in connection with their duties as Councillors, unless the information is already in the public domain.

### **Requests, advocacy and queries on service on behalf of tenants, residents and applicants**

In such instances it will be business as usual with the councillor able to contact staff of East Durham Homes by telephone or letter.

If a councillor wants to visit an officer about a query then normally an appointment should be made with the officer.

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## **Complaints about services, policy or member of staff of East Durham Homes**

These will be dealt with in line with the Company's complaints procedure.

## **General Applicant/Tenant information (e.g. homelessness advice pre/post an allocation, lettings lists and notice of evictions) to individual councillors outside a committee.**

In the past members have been sent certain personal data without the consent of the data subject (e.g. lettings lists).

This has been justified under the ground that the information was necessary for him or her to carry out official duties (i.e. make a decision). This justification stretched the limits of data protection under past arrangements and under the new arrangements it is even more unjustifiable. The company would be in breach of data protection legislation unless the consent of the data subject was obtained.

Other information that does not provide personal data will be provided, e.g. lists of empty property.

## **Council's Scrutiny Committees**

When required to attend overview and scrutiny committees of the Council, company employees will confine their evidence as far as possible to questions of fact and explanation relating to the company's policies and decisions. Employees should avoid being drawn into discussions of the merits of alternative policies where this is potentially contentious and their comments should always be consistent with political impartiality.

## **Press Releases**

Official press releases will give proper weight to the respective roles of the company, the Council and relevant Councillors (where applicable).

Any official publicity issued by the company must take into account the need to conform with the requirements imposed on the Council and Councillors by the Code of Recommended Practice on Local Authority Publicity issued under the Local Government Act 1986.

## **Ward Roles**

All Councillors have a vitally important role to play as representatives of their wards and communities and may expect support from company employees in terms of positive responses to requests for information necessary to deal with ward matters.

Clearly, company employees must not give any person preferential treatment simply because (s) he has taken a matter up with a Councillor.

Protocols have been drawn up to cover a number of specific situations relating to Councillors in the ward role. These are:

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- Consultation of Councillors (Annex A)
- Public meetings (Annex B)
- Candidates at local elections (Annex C)
- Parliamentary candidates (Annex D).

## ANNEX A

### **Consultation of Ward Councillors**

From time to time company employees may consult Ward Councillors on matters affecting their wards, which require to go to the Board or one of its committees for a decision.

The purpose of consulting Ward Councillors is:

- To make them aware of issues affecting their wards so that wherever possible, they receive this information before hearing it from sources other than the company or the Council;
- To obtain information from Ward Councillors on the matter;
- To ensure that their views are recorded and taken into account.

The employee responsible for the consultation should establish personal contact with the Ward Councillor and should make a written record of the consultation. If more than one employee is involved, the relevant strategic employee(s) should be clear about who is taking responsibility for ensuring that the requirements of this protocol are met.

## ANNEX B

### **Public meetings**

Public meetings are a valuable means of consulting on issues of local concern. They can provide the company with a means of explaining its position and allowing local people to understand the issues concerned.

The nature of the company's business and its commitment to working in partnership with the Council means that arrangements for public meetings ought to be made in consultation with the Council, whether as a result of a company initiative or in response to requests for meetings from Ward Councillors or other individuals and interested groups. Normally these requests should not cause a difficulty but occasionally the issues involved could raise local sensitivities particularly in wards where there is mixed political representation on the Council.

To ensure a consistent approach and avoid any possibility of misunderstanding roles, requests for public meetings should be directed to the company's Chief Executive who will consider the request in consultation with the Chairman of the Board, before ensuring that there is no conflict of interest with the Council. Subject to these conditions being satisfactorily met, the appropriate employee would be responsible for agreeing with the Council how arrangements are to be made and by whom, in relation to booking and paying for accommodation and for attendance by relevant company employees and Council officers.

No meetings should be held between publication of a Notice of Election for a Ward or Parliamentary constituency and election day.

## ANNEX C

### Candidates at local elections

This note gives advice to employees on dealing with requests for advice or assistance from people who are standing as candidates at local elections in the District of Easington, whether by-elections or the annual municipal elections.

If a candidate asks for advice or assistance on a matter relating to a constituent or affecting the area of the ward, the request should be treated as if it was coming from an individual on behalf of a constituent. It should be dealt with like any other such request that is with courtesy and an attempt to help.

Where the candidate says that the matter has been raised by a constituent or constituents, (s)he should be informed that employees will look into the matter and if (s)he will provide the name of the constituent(s) who has/have raised it, employees will write to them directly. If the issue is one of more than individual concern, such as a complaint about the maintenance of an area of open space on a Council housing estate, the response should also say that employees will liaise with the Council in order to inform the ward councillors and discuss it with them. But this is not required where the issue relates to one individual or household, for example a repair request.

Sometimes a candidate may raise a matter apparently on his/her own initiative and without making any reference to it having been raised by constituents. In this case employees should deal with it in the normal way and respond to the candidate as to anyone else who has requested assistance or information. It will not be necessary to inform the ward councillor unless the matter is judged to be particularly significant.

No preference should be given to any one candidate's request and no personal or confidential information should be given to candidates.

The situation is somewhat different when one of the ward councillors is himself/herself a candidate at the election. In this case, (s)he remains the ward councillor right up until the date of retirement (the fourth day after the election) and should continue to be treated as such. This means, in particular, that if the ward councillor raises an issue on behalf of constituents employees will correspond with him/her directly and without involving other ward councillors.

There are sometimes circumstances where no election has yet been called but individuals hold themselves out as being candidates. In this situation, the same rules apply.

Election posters clearly seeking support for a political party are not permitted on company property. In cases of doubt please contact the Director of Support Services.

## ANNEX D

### **Parliamentary candidates**

Once Parliament has been dissolved all former MPs become parliamentary candidates who should all be treated the same.

Requests from parliamentary candidates for advice or assistance for a constituent should be processed in the normal way. No personal or confidential information should be given to candidates. As candidates are no longer MPs a request should be treated as if it were coming from an individual on behalf of a constituent. It should be dealt with as the company would deal with any such request that is with courtesy and an attempt to help. Employees should indicate that they are going to look into the matter and if the candidate will provide the name(s) of the constituent(s) who has/have raised it, employees will write to him/her/them directly. Where the candidate apparently on his/her own initiative, has raised the matter without reference to constituents, employees should respond directly to the candidate.

The situation is somewhat different when a serving councillor for a ward in the District of Easington stands as a parliamentary candidate for a constituency, which covers his/her ward. In that case, the councillor should continue to be treated as the ward councillor in relation to any matter relating to his/her ward; if (s)he raises an issue on behalf of constituents in the ward, employees will correspond with him/her directly. However, if the issue does not relate to the councillor's ward, it should be treated as if it had been raised by any other candidate and dealt with as set out in paragraph 2.

Election posters clearly seeking support for a political party are not permitted on company property. In cases of doubt please contact the Company Secretary and Solicitor.