

Member/Officer Protocol

Guidance for an effective working relationship based on mutual respect and understanding

1. Introduction

- 1.1 The purpose of this protocol is to guide Members and Officers of the Council in their relationship with one another. It is hoped the Protocol will help build and maintain a good working relationship between Members and Officers as they work together. Employees who are required to give advice to Members are referred to as "Officers" throughout.
- 1.2 A strong, constructive and trusting relationship between Members and Officers is essential to the effective and efficient working of the Council.
- 1.3 It is recognised that relationships between Members and Officers are very varied and can often be complex. This Protocol does not seek to be prescriptive or comprehensive and may not cover all situations. However, it is hoped that the framework it provides will serve as a guide to dealing with a wide range of circumstances. This Protocol is, to a large extent, no more than a statement of current practice and convention, though in some respects it seeks to promote greater clarity and certainty.
- 1.4 This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of those codes is to enhance and maintain the integrity (real and perceived) of local government, and they therefore demand very high standards of personal conduct.
- 1.5 The principles underlying the Protocol are:
- Selflessness – serving only the public interest.
 - Honesty and integrity – not allowing these to be questioned; not behaving improperly.
 - Objectivity – taking decisions on merit.
 - Accountability – to the public; being open to scrutiny.
 - Openness – giving reasons for decisions.
 - Personal judgement – reaching one's own conclusions and acting accordingly.
 - Respect for others – promoting equality; avoiding discrimination; respecting others (Member/Member, as well as Member/Officer and Officer/Officer).
 - Duty to uphold the law – not acting unlawfully.
 - Stewardship – ensuring the prudent use of the Council's resources.
 - Leadership – acting in a way which retains public confidence.
- 1.6 Both Councillors and Officers serve the public and are indispensable to one another. However, their responsibilities are distinct: Councillors decide policy for the Council, and Officers give effect to Council policies.

2. Members

2.1 Mutual respect between Councillors and Officers is essential to good local government. It is important that any dealings between Members and Officers observe reasonable standards of courtesy, and that neither party seeks to take unfair advantage of their position.

2.2 In line with the Councillors' Code of Conduct, a councillor must treat others with respect, must not bully or harass people, and must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

2.3 Officers can expect Members:

- to act within the policies, practices, processes and conventions established by the Council;
- to work constructively in partnership with Officers, acknowledging their separate and distinct roles and responsibilities;
- to understand and support the respective roles and responsibilities of Officers and their associated workloads, pressures and reporting lines;
- to give political leadership and direction and to seek to further their agreed policies and objectives, with the understanding that Members have the right to take the final decision on issues based on advice;
- to treat them fairly and with respect, dignity and courtesy;
- to act with integrity, to give support and to respect appropriate confidentiality;
- to recognise that Officers do not work under the instruction of individual members or groups;
- not to subject them to bullying, intimidation, harassment, or put them under undue pressure;
- to treat all Officers, partners (those external people with whom the Council works) and members of the public equally, and not to discriminate on the basis of any characteristic such as age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation;
- not to request Officers to exercise discretion which involves acting outside the Council's policies and procedures;
- not to authorise, initiate or certify any financial transactions, or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a councillor, without proper and lawful authority;
- not to use their position or relationship with Officers to advance their personal interests or those of others, or to influence decisions improperly;
- to comply at all times with the Councillors' Code of Conduct, the law, and such other policies, procedures, protocols and conventions agreed by the Council.

2.4 It is important that Members of the Authority:

- respect the impartiality of Officers and do not undermine their role in carrying out their duties;
- do not ask Officers to undertake work, or act in a way, which seeks to support or benefit a particular political party, or which could give rise to an Officer being criticised for operating in a party-political manner;
- do not ask Officers to exceed their authority where that authority is given in law, by the Council or by their managers;
- do not raise concerns about an employee in a public setting, and instead raise such concerns in an appropriate manner in accordance with Council policy;

- remember that Parish Council Officers are employed by the whole Council and not by any individual member.

3. Officers

3.1 The primary role of Officers is to advise, inform and support all Members, and to implement the lawfully agreed policies of the Council.

3.2 Officers are responsible for day-to-day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.

3.3 In performing their role, Officers will act professionally, impartially and with political neutrality. Whilst Officers will report a Member's view on an issue, the Officer should not be influenced or pressured to make comments or recommendations which are contrary to their professional judgement or views.

3.4 Officers should:

- implement decisions of the Council and its subordinate bodies which are lawful and have been properly approved in accordance with the requirements of the law and the Council's constitution, and are duly recorded;
- work in partnership with Members in an impartial and professional manner;
- assist and advise all parts of the Council, and always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions;
- respond to enquiries and complaints in accordance with the Council's standards;
- be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public;
- act with honesty, respect, dignity and courtesy at all times;
- provide support and learning and development opportunities for Members to help them perform their various roles;
- not seek to use their relationship with Members to advance their personal interests or to influence decisions improperly;
- comply at all times with the policies and procedures approved by the Council.

3.5 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities.

3.6 A Member who is unhappy about the actions taken by, or conduct of, an Officer should:

- avoid personal attacks on, or abuse of, the Officer at all times;
- ensure that any criticism is well founded and constructive;
- ensure that any criticism is made in private;
- take up the concern with the appropriate Officer.

4. The Relationship: General

4.1 Members and Officers are indispensable to one another. However, their responsibilities are distinct: Members are accountable to the public, whereas Officers are accountable to the Council as a whole.

4.2 At the heart of the Codes, and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. It is important that any dealings between Members and Officers observe standards of courtesy, and that neither party seeks to take unfair advantage of their position or to exert undue influence on the other.

5. Members' Access to Information and Council Documents

- 5.1 Members are free to approach any Officer for information, explanation and advice about their functions, as reasonably needed to assist them in discharging their role as Members of the Council. This can range from a request for general information to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Officer concerned.
- 5.2 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.
- 5.3 The common law right of Members is based on the principle that a member has a prima facie right to inspect council documents so far as their access to the documents is reasonably necessary to enable them properly to perform their duties as a member of the Council. This is commonly referred to as the "need to know" principle.
- 5.4 The exercise of this common law right depends on the member's ability to demonstrate that they have the necessary "need to know". A member has no right to a roving commission to examine council documents; mere curiosity is not sufficient. The determination of "need to know" must be made by the Officer.
- 5.5 In some circumstances (e.g. a committee member wishing to inspect documents relating to the functions of that committee), a member's "need to know" will normally be presumed.
- 5.6 In other circumstances (e.g. a member wishing to inspect documents containing personal information about third parties), a member will normally be expected to justify the request in specific terms. Any council information provided to a member must only be used for the purpose for which it was provided, i.e. in connection with the proper performance of the member's duties.
- 5.7 The Code of Conduct states that a member must not disclose confidential information, or information which they believe to be of a confidential nature.
- 5.8 For completeness, members have the same right as any other member of the public to make requests for information under the Freedom of Information Act 2000.

6. Chairs and Vice-Chairs of Council and Committees

- 6.1 Chairs and Vice-Chairs have additional responsibilities as delegated by the Council, which may mean they have a closer working relationship with employees than other members do. However, they must still respect the impartiality of Officers and must not ask them to undertake work, or anything else, which would prejudice that impartiality.
- 6.2 Whilst the Chair will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations an Officer will be under a duty to submit a report on a particular matter. It is the responsibility of the Officer to express their own professional views and recommendations. Whilst an Officer may report the views of individual councillors on an issue, a Councillor who wishes to express a contrary view should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view.
- 6.3 It is important to remember that the law allows decisions relating to the discharge of any of the Council's functions to be taken only by the Council, a Committee of the Council, or an Officer.

- 6.4 The Council's Scheme of Delegation and resolutions passed at Committee meetings may authorise named Officers to take action in consultation with one or more members, such as the Chair and Vice-Chair of the Council or of a committee.

7. Correspondence

- 7.1 Correspondence between an individual Councillor and an Officer should not normally be copied by the Officer to any other Councillor. Where it is exceptionally necessary to copy correspondence to another Councillor, this should be made clear to the original Councillor — a system of "silent copies" should not be employed. Where the "BCC" function is used, it should be made clear on emails if another Councillor has received a copy, by adding "cc Councillor X".
- 7.2 Official letters or emails on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Councillor. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for correspondence to appear over the name of a Councillor, but this should be the exception rather than the norm. Letters or emails which create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.
- 7.3 Correspondence to individual Councillors from Officers concerning regulatory matters such as planning, enforcement, licensing and environmental health should not be sent or copied to complainants or other third parties if marked "confidential". This is to avoid recriminations and allegations of unfair treatment.

8. Press Comments and Press Releases

- 8.1 For more detailed information regarding the role of Councillors in connection with the issue of press releases, reference should be made to the Council's Press and Media Policy. Any press releases issued by the Parish Council should relate to Parish Council business.
- 8.2 The Parish Clerk or nominated representatives may respond to press enquiries but should confine any comments to the facts of the subject matter and the professional aspects of the function concerned. On no account must an Officer expressly or impliedly make any political opinion, comment or statement.
- 8.3 Any press release necessary to clarify the Council's position in relation to disputes, major planning developments, court issues or individuals' complaints should be "signed off" by the Clerk after consultation with the Chair, or, if not available, the Vice-Chair.

9. If Things Go Wrong

9.1 Procedure for Officers

- From time to time the relationship between members and the officer (or other employees) may break down or become strained. Whilst it is always preferable to resolve matters informally, it is important that the Council maintains a formal grievance procedure.
- The law requires all employees to have access to disciplinary and grievance procedures. Adopting a grievance procedure enables individual employees to raise concerns, problems or complaints about their employment in an open and fair way.
- Where the matter relates to a formal written complaint alleging a breach of the Councillors' Code of Conduct, the matter must be referred to the principal council's Monitoring Officer in the first instance, in line with the Localism Act 2011. The Council may, however, try to resolve any concerns raised informally before they become a formal written allegation.

9.2 Procedure for Members

9.2.1 If a member is dissatisfied with the conduct, behaviour or performance of the Officer or another employee, the matter should be reported to the Chair and then raised with the Officer in the first instance. If the matter cannot be resolved informally, it may be necessary to invoke the Council's disciplinary procedure.