



---

## **MEMBERS AND OFFICERS PROTOCOL**

### **1. INTRODUCTION AND PRINCIPLES**

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 It offers guidance on some of the issues, which most commonly arise. It is hoped, however, that the approach, which it adopts, to these issues will serve as a guide to dealing with other circumstances.
- 1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed, it should ensure that Members receive objective and impartial advice and that the Officers are protected from accusations of bias and any undue influence from Members.
- 1.4 It also seeks to reflect the principles underlying the respective Codes of Conduct, which now apply to Members and will apply to the Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local council's and the Codes, therefore, demand very high standards of personal conduct.
- 1.5 It is recommended that this Protocol is a local extension of the Members' Code of Conduct and intended Employee Code of Conduct. Consequently, a breach of the provisions of this Protocol may also constitute a breach of these Codes.
- 1.6 This Protocol should be read in conjunction with the Codes of Conduct and any guidance issued by the Parish Clerk and/or the District Council's Monitoring Officer

### **2. THE RELATIONSHIP: GENERAL POINTS**

- 2.1 Both Councillors and the Officers are servants of the public and they are indispensable to one another. But the responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Councillors are responsible for setting policy. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council.

- 2.2 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. Therefore, it is important that any dealings between Members and the Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position, or seek to exert undue influence on the other party.
- 2.3 Members must respect the impartiality and integrity of all the Council's Officers. Similarly, the Officers must respect the role of Members as elected community representatives.
- 2.4 Inappropriate relationships can be inferred from language/style.
- 2.5 A Member should not raise matters relating to the conduct or capability of the Officers in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. Officers have no means of responding to criticisms in public. If a Member feels he/she has not been treated with proper respect, courtesy, or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, he/she should raise the matter with the Clerk or Staffing Committee. Any action taken against the Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 2.6 Where an Officer feels that he/she has not been properly treated with respect and courtesy by a Member, he/she should raise the matter with the Clerk or Chairman, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Clerk or Chairman will take appropriate action by approaching the individual Member.

### **3 ROLES OF MEMBERS**

3.1 Members have four main areas of responsibility:

- (a) Determining the policy of the Council and giving it leadership.
- (b) Monitoring and reviewing the performance of the Council in implementing that policy and delivering services.
- (c) Representing the Council externally.
- (d) Acting as advocates on behalf of their constituents and the wider community.

### **4 THE RELATIONSHIP: OFFICER SUPPORT TO MEMBERS: GENERAL POINTS**

4.1 The Parish Clerk is responsible for day-to-day managerial and operational decisions within the Parish Council and will provide support to all Members and Officers in their various roles.

4.2 In giving such advice to Members and in preparing and presenting reports, it is the responsibility of the Officer to express his/her own professional views and recommendations. Whilst an Officer might report the views of individual Members on an issue, a Member should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view because the Member wishes to express a contrary view.

4.3 The following key principles reflect the way in which the Parish Clerk generally relates to Members:-

- The Parish Clerk is employed by, and accountable to the Parish Council as a whole.
- Support from the Parish Clerk is needed for all the authority Parish Council functions including Full Council, and all Committees and working groups designed to develop Council policy initiatives.
- Day to day managerial and operational decisions should remain the responsibility of the Parish Clerk; and
- The Parish Clerk will be provided with training and development to help him/her support the various Member roles effectively.

## **5 RELATIONSHIPS BETWEEN MEMBERS AT COMMITTEES AND OFFICERS AT MEETINGS OF THE AUTHORITY**

5.1 Reports should always contain a recommendation. Members should raise issues with the Parish Clerk's report prior to the meeting, if at all possible.

5.2 Members will give the Parish Clerk the opportunity to present any report and give any advice they wish to give.

5.3 In relation to action between meetings, it is important to remember that the law only allows for decisions to be taken by the Council, or an authorised Committee.

5.4 Members and the Parish Clerk should be mutually supportive in order to minimise any potential embarrassment to the Council. Criticism of the Parish Clerk should be dealt with in private and, by the same token, the Parish Clerk will never be publicly critical of Councillors, the Council or indeed any of its policies.

## **6 THE RELATIONSHIP: OFFICER SUPPORT:**

6.1 It is clearly important that there should be a close working relationship between Members and the Parish Clerk who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Parish Clerk's ability to deal impartially with other Members.

6.2 All Members and the Parish Clerk need to be constantly aware of the possibility of tensions arising and both the Parish Clerk and Members need to work together to avoid such tensions and conflicts existing or being perceived.

6.3 Officers are required at all times to serve the whole Council. Given the respective roles of elected Members and the Parish Clerk, it is accepted that the Parish Clerk, while remaining neutral, will inevitably give advice on a wide range of issues. Members must continue to respect the neutrality of the Parish Clerk.

## **7 MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

- 7.1 Members have the ability to ask for information pursuant to their legal rights to information. This right extends to such information, explanation, and advice, as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Parish Clerk.
- 7.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 7.3 Members have a statutory right to inspect any Council document, which contains material relating to any business, which is to be transacted by the Council. This right applies irrespective of whether the Member is a member of the meeting concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items, which may appear as a confidential item on the agenda for a meeting. The items in questions are those, which contain exempt information.
- 7.4 The common law rights of Members remain and are much broader and are based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the document is reasonably necessary to enable the Members properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the 'need to know' principle.
- 7.5 The exercise of this common law right depends therefore, upon an individual Member being able to demonstrate that he/she has the necessary 'need to know'. In this respect, a Member has no right to 'a roving commission' to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the Parish Clerk, with advice from the Monitoring Officer if needed. In the event of dispute, the question falls to be determined by the Parish Clerk who may choose to refer the matter to the Council for a decision.
- 7.6 In some circumstances e.g. a meeting of the Authority Member wishing to inspect documents relating to the business of that meeting, a Member's 'need to know' will normally be presumed. In other circumstances e.g. a Member wishing to inspect documents, which contain personal information about third parties, the Member will normally be expected to justify the request in specific terms. Furthermore, there will be a range of documents which, because of their nature are either not accessible to Members. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft committee reports, the disclosure of which prematurely might be against the Council's and the public interest.
- 7.7 Further and more detailed advice regarding Members rights to inspect Council documents may be obtained from the Parish Clerk or Council body such as NALC.
- 7.8 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council.

Therefore, for example, early drafts of Committee reports/briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied.

## **8 CORRESPONDENCE**

8.1 Sensitive/private correspondence between an individual Member and the Parish Clerk should not normally be copied (by the Officer) to any other Member. In other words, a system of 'silent copies' should never be employed.

8.2 Official letters on behalf of the Council should normally be sent to the Parish Council, rather than in the name of a Member. It may be appropriate in certain limited circumstances e.g. representations to a Government Minister, for a letter to appear in the name of the Chairman, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

## **9 PUBLICITY AND PRESS RELEASES**

9.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and taxpayer. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local councils see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is, to be welcomed. The Council's Communication Strategy should be followed.

9.2 Publicity is, however, a sensitive matter in any environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988, which provides for the Secretary of State to issue Codes of Recommended Practice as regards the content, style, distribution, and costs of local authority publicity and such other matters as he/she thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity. A copy of this code is available for inspection by members in the Parish office.

9.3 The Parish Clerk and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, the Parish Clerk and/or Members should initially seek advice from the Parish Clerk. Particular care should be paid to any such publicity used by the Council around the time of an election.

9.4 Whenever a public meeting is organised by the Council to consider a local issue, all the Members will as a matter of course, be invited to attend the

meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, Members will be notified at the outset of the exercise.