

Member Officer Protocol and Code of Conduct

Protocol On Member/Officer Relations

1 INTRODUCTION AND PRINCIPLES

- 1.1 This Protocol is to guide Members and Officers of the Council in their relations with one another so as to ensure the smooth running of the Council and to satisfy the ethical standards required.
- 1.2 Given the variety and complexity of such relations this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts 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 Officers are protected from accusations of bias and any undue influence from Members.
- 1.4 It seeks to reflect the principles underlying the Code of Conduct. The shared object of the code is to enhance and maintain the integrity (real and perceived) of local government and the Code, therefore demands very high standards of personal conduct.
- 1.5 This Protocol is an extension to the Code of Conduct and the Employee Interests and Integrity Procedure. A breach of the provisions of this Protocol may also constitute a breach of these.
- 1.6 This Protocol should be read in conjunction with the Code of Conduct, and any guidance issued by the Monitoring Officer of Wiltshire Council.

2 THE RELATIONSHIP: GENERAL POINTS

- 2.1 Whilst both Councillors and Officers are servants of the public and they are indispensable to one another 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 and its various bodies.
- 2.2 At the heart of 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 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, all Officers must respect the role of Members as elected representatives.
- 2.4 Inappropriate relationships can be inferred from language. To protect Members and Officers, Officers should address Members at formal meetings as Councillor xxx and Mr or Madam Mayor save where circumstances clearly indicate that a level of informality is appropriate. Similarly, when addressing Officers at formal meetings of the Council, Members should address Officers by their post title.
- 2.5 A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with this Protocol. An Officer has no means of responding to criticisms in public. If a Member feels they have not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, they should raise the matter with the Town Clerk. Any action taken against an Officer in respect of a complaint, will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 2.6 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a Department in a manner that is incompatible with the overall objectives of this Protocol.
- 2.7 Where an officer feels that they have not been properly treated with respect and courtesy by a Member, they should raise the matter with the Town Clerk. In these circumstances the Town Clerk will take appropriate action by approaching the Member and/or Group Leader or by referring the matter to the Monitoring Officer as a complaint.

3 ROLES OF MEMBERS AND OFFICERS

3.1 Members have four main roles :

- Determining the policy of the Council and giving it political leadership
- Monitoring and reviewing the performance of the Council in implementing that policy and delivering services
- Representing the Council externally
- Acting as advocates on behalf of their constituents and the wider community

3.2 Officers have the following main roles:

- Initiating policy recommendations
- Implementing agreed policy, managing and providing the services and being accountable for the efficiency and effectiveness of the services provided
- Providing professional advice to the Council, its various bodies and individual members
- Ensuring the Council always acts in a lawful manner
- Ensuring the Town Councils finances are robust and managed correctly.

4. THE RELATIONSHIP : OFFICER SUPPORT TO MEMBERS : GENERAL POINTS

4.1 Officers are responsible for day-to-day managerial and operational decisions within the Council and will provide support to all Councillors 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 their professional views and make recommendations. Members should not seek to pressure the Officer to make a recommendation contrary to the Officer's professional view because of their wish to express a contrary view.

4.3 The Town Clerk has certain statutory roles which need to be understood and respected by all Members. Members must respect these statutory obligations, must not obstruct the Town Clerk in the discharge of their responsibilities and must not victimise them for discharging their responsibilities.

4.4 The following key principles reflect the way in which Officers generally relate to Members:

- All Officers are employed by, and accountable to, the authority as a whole
- Support from Officers is needed for all of the authority's functions
- Day to day managerial and operational decisions should remain the responsibility of the Town Clerk and other Officers and
- All Officers will be provided with training and development to help them support the various Member roles effectively.

4.5 Finally, it must be remembered that Officers within the Town Council are accountable to their line manager and ultimately the Town Clerk and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their line manager or the Town Clerk.

5 RELATIONSHIPS BETWEEN MEMBERS AT COMMITTEES AND OFFICERS AT MEETINGS OF THE COUNCIL

5.1 Reports should always contain a recommendation unless the issue is clearly one where political judgement is required. They will also always include the name of the Officer. Members should raise issues with that Officer prior to the meeting if at all possible.

5.2 Chairs and Members shall give Officers the opportunity to present any report and give any advice the officer considers it is advisable to give.

5.3 All Members shall seek the advice of the Town Clerk where they consider there is doubt about the power for a decision or where they consider a decision might be contrary to pre-determined policies of the Council.

5.4 Members and Officers should be mutually supportive in order to minimise any potential embarrassment to the Council. Criticism of officers should be dealt with in private and, Officers must not be publicly critical of the Council or its policies.

6. THE RELATIONSHIP: OFFICER SUPPORT : MEMBER AND PARTY GROUPS

- 6.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities they serve the Council as a whole.
- 6.2 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photo-copying, transport etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity.

7. OFFICER RELATIONSHIPS WITH PARTY GROUPS

- 7.1 The council recognises political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of consideration by the relevant Council body. Meetings between the Town Clerk and Chairs and/or group leaders will be held when appropriate albeit that they have no executive powers.
- 7.2 In dealings with members, in particular when giving advice to political party groups, Officers must demonstrate political impartiality and must not suppress professional advice due to political views.
- 7.3 Any particular cases of difficulty or uncertainty in this area of Officer advice to political party groups should be raised with the Town Clerk who will then discuss them with the relevant group leader(s).

8. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 8.1 Members may ask for information pursuant to their legal rights. 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 a Department's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the relevant Council Officer.
- 8.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 8.3 Members have a statutory right in inspect any Council document which contains material relating to any business which is to be transacted by the Council. The 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.
- 8.4 The common law rights of Members remain intact, are much broader and are based on the principle that any Member has a prima facie right to inspect Council documents so far as their access to the document is reasonably necessary to enable the Member properly to perform their duties as a Member of the Council. This principle is commonly referred to as the 'need to know' principle.
- 8.5 The exercise of this common law right depends therefore, upon an individual Member being able to demonstrate that they have 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 will initially be determined by the Town Clerk.
- 8.6 In some circumstances (e.g. a Member wishing to inspect documents relating to the business of a meeting of the Council or its bodies) 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.
- 8.7 Whilst the term 'Council document' is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a 'need to know' and therefore, a right to inspect, a document which forms part of the internal workings of another party group.
- 8.8 Further and more detailed advice regarding Members rights to inspect Council documents may be obtained from the Town Clerk.
- 8.9 Any Council information provided to a Member must only be used by Members 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.

9. CORRESPONDENCE

- 9.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of 'blind copies' should not be employed.
- 9.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. 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.

10. PUBLICITY AND PRESS RELEASES

- 10.1 Local councils are accountable to their electorate. Accountability requires local understanding by the Council explaining its objectives and policies to the electors and taxpayers. Local councils increasingly use publicity to inform the community and to encourage public participation. Every Council needs to tell the public about the services it provides. Good, effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, to be welcomed.
- 10.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local council 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 Code develops the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. It requires that all local councils shall have regard to the provisions of any such Code in coming to any decision on publicity.
- 10.3 Officers and Members of the Council will, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, Officers and/or Members should initially seek advice from the Town Clerk. Particular care should be paid to any such publicity used by the Council around the time of an election. Particular advice will be given on this by the Town Clerk.

11. MEMBERS IN THEIR WARD ROLE AND OFFICERS

- 11.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected 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, the Ward Members will be notified at the outset of the exercise.
- 11.2 Should Members or local residents convene a local meeting, Officer attendance will be at the direction of the Council or at the discretion of the Town Clerk and will take account of the purpose of the meeting.
- 11.3 In all circumstances, the role of Officers at such meetings is to provide information on the topic under consideration and any decision making process which might be relevant, but not to offer or share judgements. Officers will seek to assist in the effective engagement of the community but will be mindful at all times of the integrity of the formal decision making process.
- 11.4 Members attending local consultation meetings, which may on occasion give rise to heated debate, should be mindful of the restrictions on the responses available to Officers and both Officers and Members should act at all times in accordance with their respective Codes of Conduct.

12. CONCLUSION

- 12.1 Mutual understanding and openness on these sort of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and Officers.
- 12.2 Questions of interpretation of this Protocol will be determined by the Town Clerk.
- 12.3 Copies of the Protocol will be issued to all Members, upon election, and all line managers.

First adopted by Council on 21st May 2019

Code of Conduct

You are a member or co-opted member of Trowbridge Town Council and hence you shall have regard to the following principles - **selflessness, integrity, objectivity, accountability, openness, honesty and leadership.**

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the following requirements, by leadership and example.

Accordingly, when acting in your capacity as a member or co-opted member:

1. You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
2. You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
3. When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
4. You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
5. You must be as open as possible about your decisions and actions and the decisions and actions of Trowbridge Town Council, and should be prepared to give reasons for those decisions and actions.
6. You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties, and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out below.
7. You must, when using or authorising the use by others of the resources of Trowbridge Town Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Registering and declaring pecuniary and non-pecuniary interests

8. You must, within 28 days of taking office as a member or co-opted member, notify Wiltshire Council's monitoring officer* of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living as a husband or wife, or as if you were civil partners.

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9. In addition, you must, within 28 days of taking office as a member or co-opted member, notify Wiltshire Council's monitoring officer* of any disclosable pecuniary or non-pecuniary interests which Trowbridge Town Council has decided should be included in the register.

10. If an interest has not been entered onto the register you must disclose the interest to any meeting of Trowbridge Town Council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a sensitive interest.

11. Following any disclosure of an interest which is not on the register or the subject of pending notification, you must notify Wiltshire Council's monitoring officer* of the interest within 28 days beginning with the date of disclosure.

12. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions Trowbridge Town Council places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by Trowbridge Town Council.
(see Standing Order 7.4)

13. Additional 'Part B' non-pecuniary interests which are required to be disclosed to a meeting but do not exclude members from participating, unless the member feels that it would be appropriate for them to voluntarily leave the room during the item under consideration.

- a) any body of which the councillor is a member or in a position of general control or management and to which the councillor is appointed or nominated by the Council;
- b) any body exercising functions of a public nature of which the councillor is a member or in a position of general control or management;
- c) any body directed to charitable purposes of which the councillor is a member or in a position of general control or management;
- d) any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which the councillor is a member or in a position of general control or management.

**This information will be published on the Wiltshire Council web-site and can be undertaken by the Town Clerk on your behalf if you pass the information to the Town Clerk.*

Section 1 to 12 adopted by Council on 26th June 2012, came into effect on 1st July 2012.

Section 13 adopted by Council on 15th January 2013, came into effect on 3rd May 2013.

Signed Cllr. , Mayor.

Signed Lance Allan, Town Clerk.

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