

Protocol for Member Officer Relations

RESPONSIBLE COMMITTEE: PERSONNEL

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Protocol for Member/Officer Relations

1. Introduction

The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another. A strong, constructive and trusting relationship between Members and Officers is essential to ensure the effective and efficient working of the Council.

The individual roles of Members and Officers can be summarized as follows:

Both Members of the Council and Officers serve the public and are essential to one another but their responsibilities and roles are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. They give advice to the Members and the Council and carry out the Council's work under the direction of the Council and the relevant committees.

Following this protocol should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.

2. Principles underlying the protocol

The provisions of this protocol seeks to reflect the principles underlying the Members' Code of Conduct, the Employee Handbook and the Council's adopted policies, procedures and processes.¹ The shared object of the Code of Conduct and other documents, policies and procedures is to enhance and maintain the integrity (real and perceived) of Local Government and they therefore demand very high standards of personal conduct.

Principles:

- 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) and not

¹ Employees are also directed to their contract of employment, job description, the Green Book and policies relevant to their employment. They may also wish to consult their Line Manager or take advice from their union or professional association.

denigrating their work in public or making unsubstantiated allegations against any individual connected with the Council.

- Duty to uphold the law – not acting unlawfully
- Stewardship – ensuring the prudent use of the council's resources
- Leadership – acting in a way that has public confidence.

3. Roles

3.1. Members

3.1.1. Members have four main areas of responsibility:

- To determine Council policy and provide community leadership;
- To monitor and review Council performance in delivering services;
- To represent the Council externally; and
- To act as advocates for their constituents.
- **In addition, all Members of the Council should be aware of and adhere to their responsibilities as Corporate Employers.** When Members join the Council guidance is provided and Members of the Personnel Committee are required to undertake additional training.²

3.1.2. All Members have the same rights and obligations in their relationship with the Clerk and other employees, regardless of their status and should be treated equally.

3.2. Chairmen and Vice Chairmen of Committees

It is clearly important that there should be a close working relationship between Chairmen and Vice-Chairmen of Committees and the Officers 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 officer's ability to deal impartially with other Members. Officers should never be asked to do anything which may prejudice their impartiality.

3.3. Officers

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

- Officers are employed by, and accountable to, the Council as a whole;
- Officers are impartial;

² NALC Being a Good Employer

- Officers are responsible for operational delivery of all of the Council's functions including support to all Council Committees;
- Day to day managerial and operational decisions remain the responsibility of the Town Clerk and Line Managers.

4. Expectations

4.1. Members can expect:

- A commitment from Officers to the Town Council as a whole, not to any individual Member or group of Members;
- A working partnership³;
- That Officers understand and support respective roles, workloads and pressures;
- Respond to enquiries and complaints in accordance with the Council's standards;
- Professional, impartial advice and information, not influenced by political views or personal preferences;
- Regular, up to date information on appropriate and relevant matters, having regard to individual responsibilities or positions held;
- Respect, courtesy, Integrity and appropriate confidentiality from Officers;
- Not to have personal issues raised with them by Officers outside the council's agreed procedures;
- That Officers will not use their contact with Members to advance their personal interests or to influence decisions improperly;
- That Officers at all times will comply with relevant policies and procedures;
- If representing the Council on an outside body, to be required to provide update reports in a timely manner with an appropriate level of detail.

4.2. Officers can expect from Members:

- A working partnership and to be treated in a professional manner;
- An understanding of, and support for, respective roles, workloads and pressures;
- Timely responses to emails and/or telephone calls;
- Leadership and direction;
- Respect, courtesy, integrity and appropriate confidentiality;

³ Members may find the following publication helpful: LGA Effective Member Officer Relations

- Not to be bullied or to be put under undue pressure;
- That Members will not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly;
- That Members will at all times abide by the Nolan Principles and with the Council's adopted Code of Conduct, policies and procedures.

5. Meetings

The interaction between Members and Officers at meetings of the Council and Committees should reflect the formality of the situation.

Any Officer carrying out a statutory role has specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an Officer is discharging their responsibilities under any statutory office a Member/Members shall now:

- Improperly interfere with or obstruct the Officer in exercising those responsibilities;
- Victimize any Officer who is discharging or has discharged their responsibilities of the Statutory Office.

Members and Officers may attend all formal meetings for the consideration of Part I (i.e. non-confidential) items, as may any member of the public. When a body is considering Part II information (i.e. exempt from publication under Access to Information legislation), Members and Officers do not have an automatic right of attendance.

6. Members' Access to information and Council documents

- 6.1. Members are free to approach the Town Clerk to provide them with such information, explanation and advice, as they may reasonably need in order to assist them in discharging their role as Members 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.
- 6.2. As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 6.3. Members have a statutory right to inspect any Council document that contains material relating to any business which is to be transacted at a Council, Committee or Sub-Committee meeting. This right applies irrespective of whether the member is a member of the Committee or Sub-Committee 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 in Part II (exempt) of the Agenda for meetings. Examples are documents that

contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

- 6.4. The common law right of members is much broader and is based on the principle that any member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This principle is commonly referred to as the “need to know” principle.
- 6.5. The exercise of this common law right depends therefore upon the Member’s ability to demonstrate that they 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.
- 6.6. 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. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms.
- 6.7. 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.
- 6.8. Finally, 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.
- 6.9. The Code of Conduct states that a Member must not disclose confidential information or information which he or she believes to be of a confidential nature, except in some specific circumstances as detailed in the Code.
- 6.10. For completeness, Members do, of course, have the same right as any other member of the public to make requests for information under the Freedom of Information Act 2000.

7. Correspondence

- 7.1. Correspondence between an individual Member and an Officer should not normally be copied by the Officer (or the Member) to any other Member. Where it is necessary to copy the correspondence to another Member, this should be done in a transparent manner with the original Member clearly informed. The system of silent copies (bcc) should not be used. Members and Officers should note that all correspondence may be subject to disclosure under the Freedom of Information Act 2000 or UK GDPR.

- 7.2. Official correspondence, by email or any other means, on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It shall, be appropriate in certain circumstances for correspondence to appear in the name of the Chairman of the Council or a Committee Chairman. Correspondence which, for example, creates legal obligations or gives instruction on behalf of the Council should never be sent out in the name of a Member.

8. Press and Social Media Comments, Press Releases and Local Publicity

- 8.1. Members and Officers are reminded to follow the procedure for communicating with the press in the Communications Policy .
- 8.2. Any press or media release that may be necessary to clarify the Council's position should be cleared by the Town Clerk or their nominated deputy in consultation with the Mayor or Chairman of the relevant committee.
- 8.3. On no account must an Officer expressly or implicitly make any political opinion, comment or statement.
- 8.4. Particular care should be taken with publicity/media comments/press releases around the time of an election and more so during the heightened period of sensitivity during the pre-election period known as Purdah. Advice will be available from CALC and the Monitoring Officer where appropriate.

9. Use of Council resources

The Code of Conduct states that a Member must, when using or authorizing the use of the resources of the Council, act in accordance with the Council's requirements. Support from Officers can only lawfully be provided where this is to assist the Member in discharging their role on Council business and should never be used in connection with political or other campaigning activity or for private purposes. The use of computers (or other IT devices) provided to Members of the Council is governed by the policies and procedures adopted by the Council, including the IT Acceptable Use Policy.

10. General guidelines

- 10.1. It is accepted that Members may wish to call on Officers to discuss various issues. However, it should be noted that Officers may have significant workloads and deadlines to meet. Any discussions likely to take more than five minutes should be by appointment except where urgent and unforeseen. All requests for tasks to be undertaken must be submitted through the Line Managers.
- 10.2. Equally, Officers should only contact Members by telephone or email where necessary and should avoid circulating superfluous information.

- 10.3. All matters relating to particular committees should be copied to the Chairman of the Committee. Requests for agenda items should be submitted to both the Chairman and the Town Clerk.
- 10.4. Close personal relationships between Members and Officers can confuse their separate roles and get in the way of the proper conduct of Council business, not least by creating a perception that a particular Member or Officer is getting preferential treatment.

11. If things go wrong

From time to time the relationship between Members and Officers may break down or become strained. Whilst it is always preferable to resolve matters informally, if appropriate through conciliation by an appropriate third party, the law requires all employers to have disciplinary and grievance procedures. The Council will maintain and regularly review separate disciplinary and grievance procedures and ensure they comply with good practice.

The Chairman of the Council should not attempt to deal with grievances or work related performance or line management issues. The Council has delegated authority on employment/human resources matters to the Personnel Committee.

Members and Officers should never personally criticise or undermine respect for the other in any public or external forum. This damages working relationships and has an adverse impact on the public image of the Council. Whilst Members have the right to criticise reports, advice or recommendations put before them at meetings, they should not address their criticism to the conduct or capabilities of individual Officers. Officers have no means of responding to such criticism in public.

Procedure for Members:

A Member who is dissatisfied with the conduct, behaviour or performance of an Officer should raise the matter with the Clerk or the Chairman of the Personnel Committee if the Officer is the Town Clerk in the first instance. If it is not possible to resolve the matter informally, it may be necessary to invoke the Council's disciplinary procedure.

Members should at all times:

- 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.

Procedure for Officers:

The Council's adopted grievance procedure enables individual employees to raise concerns, problems or complaints about their employment in an open and fair way. Where possible informal resolution should be sought via the procedure outlined in the Employee Handbook.

Where there is a potential breach of the Members' Code of Conduct:

Officers are advised to contact the Cornwall Council Monitoring Officer and request that an investigation is carried out in line with the Code of Conduct adopted under the Localism Act 2011. They may also wish to seek advice from their union or professional organisation.

Any questions about this protocol should be addressed in the first instance to the Town Clerk.

Recommended reading for Members of the Council:

NALC Being a Good Employer

Local Government Association Councillor Workbook: Effective Member and Officer Relations