



Member/Officer 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 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 to these issues will serve as a guide to dealing with other circumstances.

1.3 This Protocol is 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 also seeks to reflect the Nolan principles underlying the Council's Code of Conduct. Consequently a breach of the provisions of this Protocol may also constitute a breach of this Code.

2 Member Authority

2.1. The authority of Members is collective and, as individuals, they have no authority to issue specific directions to any employee or make criticism directly. Members must not formally inspect any Town Council property without authority or issue orders or correspondence.

2.2. The long standing requirements on Members, as employers, were re-affirmed in law by an Employment Appeals Tribunal, *Moore v Bude & Stratton Town Council*. This confirmed that the Town Council collectively was the employer, that the unofficial actions of an individual Member could destroy the entire basis of the

employer/employee relationship and that employees were entitled to a "reasonably congenial working relationship".

3 The relationship between Members and Officers

Whilst both Members and Officers are servants of the public and they are indispensable to one another their responsibilities are distinct.

Members are responsible to the electorate and serve only so long as their term of office lasts. Members are responsible for setting policy.

Officers are responsible to the Council. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council and its various bodies.

Member/Officer relationships are to be conducted in a positive and constructive way with mutual respect. 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. 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.

Inappropriate relationships can be inferred from language/style. To protect both Members and Officers, Officers should address Members at all formal meetings as, Councillor xxx and Mr or Madam Chairman 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.

A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. An Officer has 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, he/she should raise the matter with the Town Clerk.

Any action taken against an Officer in respect of a complaint will be dealt with in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

An Officer should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of the council in a manner that is incompatible with the overall objectives of this Protocol.

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 Town Clerk. In these

circumstances the Town Clerk will take appropriate action either by approaching the individual Member and/or Chairman or by referring the matter to the Monitoring Officer in the context of the Standards Committee considering the complaint.

4 Roles

4.1 Members have four main roles:

- Determining the policy of the Council
- 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

4.2 Officers have the following main roles:

- Initiating policy proposals
- Implementing agreed policy, managing and providing 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

5 The Council Decision Making Process

5.1 Day to day decision making remains the responsibility of the Town Clerk and, in any event, Standing Orders and Financial Regulations specifically authorise some delegation to Officers up to specified limits.

5.2 Members should remember that decisions and policies, once determined, are subject to collective responsibility.

6 The Relationship and Roles – General Points

6.1 Officers are responsible for day-to-day managerial and operational decisions within the Council and will provide support to all Members in their various roles.

6.2 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 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.

6.3 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 his/her responsibilities and must not victimise him/her for discharging his/her responsibilities.

6.4 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.

6.5 Finally, it must be remembered that Officers within the Town Council are accountable to their line manager (the Town Clerk) and 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.

7 Preparation of Council Agendas, Minutes and Reports and Conduct of Meetings

7.1. The Town Clerk or other appointed Officer, although responsible under statute for preparing the Agendas for all meetings of the Town Council, Committees, Sub-Committees and Working Parties and for circulation of them to meet statutory requirements, may do so in consultation with the appropriate Chairman. Additional matters for discussion may only be considered at the discretion of the Chairman in agreement with the Town Clerk.

7.2 The Town Clerk is responsible for the content of all Minutes and for circulation of them to meet statutory requirements.

7.3. An Officer will be present at all Committee and Sub-committee meetings involving Members of the Town Council and will advise on any questions relating to Standing Orders, Financial Regulations, legal requirements or committee procedures and will produce formal minutes of the meeting. (This will not apply to working group meetings.)

7.4 All Committee reports will contain a Recommendation where appropriate, which formally sets out the best advice from the Officer concerned, although the decision to accept this or not rests with the Members. Members should raise issues with that Officer prior to the meeting if at all possible.

7.5 Any Member is entitled to submit a Notice of Motion relevant to some question over which the Town Council has power or which affects its area, for inclusion on the Town Council or relevant Committee Agenda. It must be received by letter or email by 12 noon on the day before the Agenda is circulated (ie one week and one day before the day of the meeting).

7.6 Unless authorised otherwise by the Chairman of the meeting concerned, during Committee meetings, all mobile telephones will be switched off, no eating is permitted and drinking is restricted to the water provided.

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

7.8 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, by the same token, Officers will never be publicly critical of the Council or its policies.

8 Member Access to Information and to Council Documents

8.1 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 a Department's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the relevant line manager of the Town Council.

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 to 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 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 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.

8.5 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 Town Clerk.

8.6 In some circumstances (e.g. a meeting of the Council or its bodies and a 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.

8.7 Further and more detailed advice regarding Members rights to inspect Council documents may be obtained from the Town Clerk.

8.8 Finally, 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 Correspondences

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

The government has issued a Code of Recommended Practice on Local Authority Publicity and this code along with the Council's press and media policy will be taken into account by Officers and Members when making decisions about the Council's use of publicity.

11 Events, Public Meetings and Consultations

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 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 Members should act at all times in accordance with their Code of Conduct.

12 Conclusion

12.1 Mutual understanding and openness on these sensitive issues and basic respect are the greatest safeguards of the integrity of the Council, its Members and Officers.

12.2 Copies of the Protocol will be issued to all Members, upon election, and to all Line Managers.