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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 relations with one another. It is hoped the Protocol will help build and maintain good working relationships 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 If mediation/conciliation is sought, contact in the first instance an external HR Advisor.
- 1.4 It is recognised that relationships between Members and Officers are very varied and can often be complex. Therefore, 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. In some respects, however, it seeks to promote greater clarity and certainty.
- 1.5 This Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of Local Government and therefore demand very high standards of personal conduct.
- 1.6 The principles underlying the Protocol are based on the seven Nolan Principles:
- Selflessness – serving only the public interest.
 - Integrity – not allowing these to be questioned or being influenced by others; not behaving improperly.
 - Objectivity – taking decisions on merit.
 - Accountability – to the public; being open to scrutiny.
 - Openness – giving reasons for decisions openly and transparently.
 - Honesty – Holder of public office should be truthful.
 - Leadership – acting in a way which retains the public confidence.
- Other principles outside that of the Nolan Principles include:
- 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 a council’s resources.
 - Personal judgement – reaching one’s own conclusions and acting accordingly.

1.7 Both Councillors and Officers serve the public and they are indispensable to one another. However, their responsibilities are distinct. Councillors decide policy for 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 should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

2.2 In line with the Code of Conduct, a member must treat others with respect 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 work to the instructions of their senior Officers and not to individual members.
- not to subject them to intimidation, harassment, or put them under undue pressure. Members will have regard to the seniority of Officers in determining what are reasonable requests, having regard to the relationship between the Member and Officer, and the potential vulnerability of Officers, particularly at junior levels.
- not to request them 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 member without proper and lawful authority;
- not to use their position or relationship with Officers to advance their personal interest or those of others or to influence decisions improperly.
- to always comply with the Members' 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 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 gives 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 to them in law, by the Council or by their managers.
 - do not raise concerns about an employee in a public setting and to raise such concerns in an appropriate manner in accordance with Council policy.
 - respect that employees have a right to a private life and be sensible about making contact at potentially inconvenient times unless in an emergency or otherwise agreed.
 - remember that Town Council officers are employed by the whole council and not by any individual member.
- 2.5 All visitors including members should make an appointment prior to visiting the office.
- 2.6 One to one meetings with Officers working alone should be discouraged. General meetings held in the office between Officers and Members must be held with a third person present and meetings may be held virtually.
- 2.7 One to One meetings held between Officers and Members on a virtual platform will be recorded, the recording will be held electronically for at least 28 days. NB a copy of the recording can be available for review by attendees. These records may be used as part of a Grievance or Appeals process.

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 his professional judgement or views.
- 3.4 Officers should:
- implement decisions of the Council and its subordinate bodies which are lawful, which 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. Officers must 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 always.
 - provide support, learning and development opportunities for members to help them in performing their various roles.
 - not seek to use their relationship with members to advance their personal interests or to influence decisions improperly.
 - Always comply 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. 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.
 - If the matter is of a particularly serious nature to inform the Town Clerk and/or the external HR Advisor.

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. 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 nor seek to exert undue influence on the other party.

5. Members' Access to Information and to Council Documents

- 5.1 Members are free to approach any officer to provide them with such information, explanation and advice about their functions 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 to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Officer concerned.
- 5.2 With regard to the legal rights of members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 5.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council meeting. This 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 the exempt/confidential section of the agenda for meetings. Examples are documents that contain exempt/confidential information relating to employees, occupiers of Council property, applicants for grants and other services, contracts and industrial relations negotiations, advice from Counsel and criminal investigations.
- 5.4 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.
- 5.5 The exercise of this common law right depends therefore upon the Member's ability 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 be determined by the Officer who holds the document in question (with advice from the Town Clerk).

- 5.6 Further and more detailed advice regarding Members’ rights to inspect Council documents may be obtained from the Town Clerk.
- 5.7 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.
- 5.8 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.
- 5.9 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.

6. Officer/Mayor Relationship

- 6.1 It is clearly important that there should be a close working relationship between the Mayor and Officers who support him/her. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers’ ability to deal impartially with other Members and other Party Groups.
- 6.2 Whilst the Mayor 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. Similarly, an Officer will always be fully responsible for the contents of any report submitted in his/her name.
- 6.3 It is important to remember that the law allows for decisions (relating to the discharge of any of the Council’s functions) to be taken only by the Council, Committee of the Council or an Officer.
- 6.4 The Council’s delegation scheme 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 a Committee. In these circumstances it is the Officer, rather than the Member, who takes the action, and it is the Officer who is accountable for it.
- 6.5 Finally, it must be remembered that Officers are accountable to the Town Clerk and that whilst Officers should always seek to assist the Mayor (or indeed any member) they must not, in so doing, go beyond the bounds of whatever authority they have been given by the Town Clerk.

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 exceptionally it is necessary to copy the correspondence to another Councillor, this should be made clear to the original Councillor. In other words, a system of “silent copies” should not be employed. Acknowledging that the “BCC” system of e-mailing is used, it should be made clear on emails if another Councillor has received an e-mail by adding “cc Councillor x.”
- 7.2 Official letters or emails on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Councillor. It may be appropriate in certain circumstances (e.g. representations to a Government

Minister) for a letter or email to appear over the name of a Councillor, but this should be the exception rather than the norm. Letters or emails which, for example, 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 matters should not be sent or copied to complainants or other third parties if they are 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 Councillor in connection with the issue of press releases, reference should be made to the Council's Media Protocol. Any press releases issued by the Town Council should relate Town Council business.
- 8.2 The Town 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 that may be 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 Town Clerk after consultation with the Mayor or, if not available, the Deputy Mayor.

9. Involvement of Ward Councillors

- 9.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Councillors representing the Ward or Wards affected should, 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 Councillors should be notified at the outset of the exercise.

10. Breaches of the Protocol

- 10.1 Where a Councillor is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the Town Clerk. Where the Officer concerned is the Town Clerk the matter should be raised with the Staffing Committee.
- 10.2 Where the relationship between Councillor and Officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by the Town Clerk or Councillors. Officers will also have recourse to the council's Grievance Procedure or to the District Council's Monitoring Officer, as appropriate.
- 10.3 Breaches of the protocol by a Councillor may also constitute a breach of the Councillors' Code of Conduct.