

## **Protocol for Member-Officer Relations**

### **1. Introduction**

- 1.1 The purpose of this protocol is to guide council members and officers of the town council in their relations with each other so as to assist the smooth running of the council.
- 1.2 This protocol cannot seek to be either prescriptive or comprehensive, and the intention is to offer guidance on some of the issues which most commonly arise. It is hoped, however, that the approach adopted will serve as a guide to dealing with other issues, and be a useful reference point in the maintenance and promotion of high standards of conduct.
- 1.3 This protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to members and officers. The shared objective of these codes is to enhance and maintain the real and perceived integrity of the town council, and they therefore demand very high standards of personal conduct.
- 1.4 One of the key issues to be addressed by the protocol is the question of member/officer relations. Mutual trust and respect should be the key aim; any dealings between members and officers should observe standards of courtesy and neither party should seek to take unfair advantage of their position, and do anything which compromises, or is likely to compromise, the impartiality of officers or undermines them.
- 1.5 Basic respect, mutual understanding, and openness are the greatest safeguard of the integrity of the council, its members and officers.
- 1.6 This protocol is, to a large extent, a written statement of current practice and convention. It seeks to promote greater clarity and certainty.

### **2. General Points**

- 2.1 Members should avoid making personal attacks on or derogatory comments about officers and, in particular, avoid undermining respect for officers in council, committee meetings, public forums and through social media. Complaints by officers against members should be directed to the mayor and town clerk as appropriate.
- 2.2 Similarly, officers should avoid making personal attacks on or derogatory statements about members and, in particular, avoid undermining respect for members in council, committee meetings, public forums and through social media. Complaints by members against officers should be directed to the town clerk in the first instance.

- 2.3 If the complaint is about the town clerk, members should discuss the matter with the mayor.
- 2.4 Where member conduct is considered inappropriate, and a member believes that there has been a breach of the town council's Code of Conduct or a breach of this or any other protocol by another member, they should refer the matter to the mayor and/or West Dorset District Council's monitoring officer.
- 2.5 Officers with complaints of alleged unethical conduct by members, should, in the first instance, refer such matters to the town clerk.
- 2.6 Members are entitled to opinions but should not seek to undermine factual information provided by officers.

### **3. The role of Members and Officers**

- 3.1 The responsibilities of members and officers are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the council and 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, its committees and sub-committees.
- 3.2 Officers serve the town council through the full council and its committees. They work to the instructions of the town clerk, not individual members of the council, whatever office the member may hold. Officers must not be asked to exceed the bounds of authority delegated to them, nor should they have unreasonable demands placed on them in terms of support to an individual member.
- 3.3 The town clerk as responsible financial officer and proper officer has specific roles and these are detailed in the Scheme of Delegation. His/her role needs to be understood and respected by all members.

### **4. The Relationship**

- 4.1 The following key principles reflect the way in which the 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 the authority's functions, including Full Council, committees and sub-committees, and individual members representing their community.
  - Day-to-day managerial and operational decisions should remain the responsibility of the town clerk and other officers.
  - All officers will be provided with training and development to help them support the various member roles effectively and to understand the new structures.

- 4.2 Mutual respect between employees and elected members is essential.
- 4.3 Inappropriate relationships can be inferred from language or style. To protect both members and officers, officers should address members as Councillor XX, save where circumstances clearly indicate that a level of informality is appropriate. In respect of the mayor, he/she should be referred to as Your Worship, save where circumstances clearly indicate that a level of informality is appropriate.
- 4.4 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 such criticisms in public.
- 4.5 An officer should not raise with a member matters relating to the conduct or capability of another officer.
- 4.6 On occasion, a decision may be reached which authorises named officers to make decisions and take action that is beyond their delegated authority.

## **5. Officer advice**

- 5.1 It must be recognised by all members and officers that in discharging their duties and responsibilities, officers serve the town council as a whole and not any combination of groups or any individual member of the council.
- 5.2 Officers must at all times maintain a stance which is impartial.
- 5.3 The support provided by officers can take many forms, including a briefing meeting with a chairman prior to a committee or meeting or co-ordinating the activities of the council through joint chairs' briefings. Any such meetings are not empowered to make decisions on behalf of the town council.
- 5.4 Officers should be required to give information and advice on town council business and issues affecting the town of Lyme Regis. Such support and advice should be available to all members of the council.
- 5.5 Similarly, where officers provide information and advice to a chairman or any other member in relation to a matter of council business, this cannot act as a substitute for providing all necessary information and advice to the relevant committee or sub-committee when the matter in question is considered.
- 5.6 Special care needs to be exercised whenever officers are involved in providing information and advice to meetings, which include persons who are not members of the town council. Such persons are not bound

by the Member Code of Conduct (in particular, the provisions concerning the registration of disclosable pecuniary interests and confidentiality). Therefore, officers should not attend and give the same level of information and advice as they would to a member-only meeting.

- 5.7 Any particular case of difficulty or uncertainty in this area of officer advice should be raised in the first instance with the town clerk.

## **6. Resources/Support Services for Members**

- 6.1 The only basis on which the town council can lawfully provide resources by way of support services, e.g. stationery, typing, printing, photocopying, transport, to members is to assist them in discharging their role as members of the town council. Such support services should therefore not generally be used by members to support them in their roles as members of other local authorities, or of other bodies. They should never be used in connection with party political or campaigning activity, or for private purposes.

## **7. Members' Access to Information and to Council Documents**

- 7.1 Members are free to approach the town clerk to provide them with such information, explanation and advice about the council's functions as they may reasonably need to assist them in discharging their role as members of the town council. This can range from a request for general information about some aspect of an activity to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the town clerk. Members should not however put undue pressure on officers to release information and documents to which they are not entitled to have access, see below.
- 7.2 Members have a statutory right under the Local Government Act 1972 to inspect any council document which 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.
- 7.3 Exempt reports should be made available to all members, unless after consulting the relevant committee chairman, the town clerk advises that the content of the report is of such a nature that this is not appropriate. In such instances, the town clerk will inform the relevant committee of the rationale for his/her decision.
- 7.4 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.

- 7.5 The exercise of this common law right depends 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 examine documents of the council. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'. The town clerk is the officer responsible for determining these questions.
- 7.6 In some circumstances, e.g. a member wishing to inspect documents relating to the functions of the council or committee on which they are a member, 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 would be expected to justify the request in writing in specific terms.
- 7.7 Finally, any town 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.

## **8. Officer/Chairman Relationships**

- 8.1 It is clearly important that there should be a close working relationship between the chairman of a committee and the council's senior officers which report to those committees. However, such relationships should never become so close, or appear to be so close, as to bring into question the officers' ability to deal impartially with issues with other members, nor to undermine public trust and confidence in the town council. This should apply to all members and officers.
- 8.2 Officers will always be fully responsible for the contents of any report submitted in their name; and even if the chairman is unhappy with its contents, it should not be amended other than with the express approval of the relevant officer.
- 8.3 It is important to remember that the town council only allows for decisions, relating to the discharge of any of its functions, to be taken by the Full Council, its committees, or by an officer with delegated powers. Decisions must not be taken by a chairman or indeed by any other single member, unless delegated authority has been given. Officers have a duty to the whole council rather than an individual member.
- 8.4 Finally, it must be remembered that officers are accountable to the town clerk, and that whilst officers should always seek to assist a committee chairman and any other member, they must not, in so doing, go beyond the bounds of whatever authority they have been delegated.

## **9. Business Meetings and Involvement of Members**

- 9.1 Whenever a business meeting is organised by or on behalf of the town council to consider a local issue, the relevant chairman should be invited to attend the meeting. Similarly, whenever the town council undertakes any form of consultative exercise that affects the whole electorate of the town, members should be notified at the outset of the exercise.
- 9.2 Business meetings of the town council will be convened by the town clerk, who will also send any relevant invitations to third parties.
- 9.3 Any business meeting called by an individual member or group or members, rather than by a town council officer, shall not be regarded as a meeting called by the town council. An officer shall not attend such a meeting, in his or her capacity as a town council officer, unless authorised by the town clerk.

## **10. Correspondence**

- 10.1 If an officer copies correspondence addressed to one member, to another member, then this should be made clear to the original member.
- 10.2 Official letters on behalf of the town council should normally be sent out in the name of the appropriate officer, rather than in the name of a member. It may be appropriate in certain circumstances, e.g. representation to a government minister, for a letter to appear in the name of a member, but this should be only in exceptional circumstances. Letters which, for example, convene meetings, create obligations, or give instructions on behalf of the council should never be sent out in the name of a member.
- 10.3 The council recognises the importance of the civic roles within the council and official correspondence from the mayor in relation to civic duties will be sent out in his/her name.

## **11. Fraud and corruption**

- 11.1 The protocol regarding the accepting of gifts and hospitality is referred to in the respective Codes of Conduct for members and staff.
- 11.2 Members and officers have a duty to raise any issues where they have reason to believe fraud or corruption of any kind is involved. The member or officer should also notify the town clerk who will then advise on notification to any regulatory agency such as the police or external audit in appropriate cases.

## **12. Public relations and press releases**

- 12.1 All officers of the town council must comply with the requirements of the Local Government Act 1986 which prohibits councils from publishing any material which seems designed to affect public support for a political party.
- 12.2 Matters surrounding council publicity and relationships with the media are dealt with in the PR/Communications Policy and Procedure.

**This protocol is to be reviewed no later than February 2017**