

Part 5.3:

A Protocol for Councillor and Officer Relations

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Part 5.3: A Protocol for Councillor and Officer Relations

1. INTRODUCTION

- 1.1 The purpose of this Protocol is to guide councillors and officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 Given the variety and complexity of such relationships, this Protocol cannot be either overly prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. Beyond the stricter issues raised, however, it is hoped that the approach which it adopts to these issues 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 local convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should also ensure that councillors receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from councillors.
- 1.4 This Protocol also seeks to reflect the principles underlying the respective national codes of conduct which apply to councillors and officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government; they therefore demand very high standards of personal conduct.
- 1.5 The following extract from previous national guidance on conduct for councillors is relevant:
- 1 *“Both Councillors and Officers are servants of the public and they are indispensable to one another. But their responsibilities 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. 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, their committees and sub-committees.*
 2. *Mutual respect between Councillors and Officers is essential to good local government. Close personal familiarity between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers.”*
- 1.6 This Protocol is an extension of the codes for councillor and officer conduct and should be read in conjunction with those codes. This Protocol should also be read in conjunction with any rules or guidance that may from time to time be issued by the East Northamptonshire Joint Standards Complaints Committee, Governance and Audit Committee or the Council’s Monitoring Officer.

2. GENERAL CONDUCT

- 2.1 “Mutual respect” is important and it is important that any dealings between councillors and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position, or exert undue influence on the other. Mutual respect will ensure that councillor/officer relationships are conducted in a positive and constructive way.
- 2.2 Councillors should not raise matters relating to the conduct or capability of an officer, or of officers collectively, in a manner that is incompatible with this Protocol at meetings held in public. This is a long-standing tradition in public service. An officer has no means of responding to criticisms like this in public.
- 2.3 If a councillor feels he or she has 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 Chief Executive or Executive Director concerned if they cannot resolve it through direct discussion with the Head of Service. The Chief Executive will then look into the facts and report back to the councillor. If the councillor continues to feel concerned, he or she should report the facts to the Chief Executive who will look into the matter afresh.
- 2.4 The conduct of officers generally is a matter for the Head of the Paid Service. Action may only be taken against an officer in respect of a complaint in accordance with the Council’s Disciplinary Rules and Procedures.
- 2.5 Neither should an officer raise with a councillor matters relating to the conduct or capability of another officer or to the internal management of the section or Directorate in a manner that is incompatible with the objectives of this Protocol.
- 2.6 Where an officer feels that he or she has not been properly treated with respect and courtesy, or is concerned about any action or statement relating to him/herself or a colleague by a councillor, they should raise the matter with their line manager, Executive Director or the Chief Executive as appropriate. In these circumstances the Chief Executive or Executive Director will take appropriate action either by approaching the individual councillor and/or the party group leader.
- 2.7 It is unacceptable for councillors or senior officers to take unfair advantage of their position within the local authority. Where the behaviour complained of is regarded by the Chief Executive, Chief Finance Officer, or Monitoring Officer (as appropriate) to be a form of bullying, intimidation or harassment intended to influence unfairly a person’s actions, thoughts or deeds, the matter will be the subject of action, either
- under the Council’s grievance or disciplinary procedures, in respect of officers,
- or
- by way of a complaint to the Monitoring Officer, in respect of councillors, if breach of the Councillors Code of Conduct is alleged.

3 OFFICER ADVICE TO PARTY GROUPS

- 3.1 It must be recognised by all Officers and Councillors that in discharging their duties and responsibilities officers serve the Council as a whole and not any political group, combination of groups or any individual Councillor of the Council.
- 3.2 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to brief such deliberations by party group leaders, but must at all times maintain political neutrality. All officers must, in their dealings with political groups and individual councillors, treat them in a fair and even-handed manner.
- 3.3 The support provided by officers can take different forms, but is most likely to take the form of a briefing for a Committee Chairman or group spokesman prior to a meeting. Whilst in practice such officer support is likely to be in most demand from any party group which may be for the time being in control of the Council (the controlling group), such support is available to all party groups. Certain points must, however, be clearly understood by all councillors and officers participating in this type of process.
- 3.4 Officer support must not extend beyond briefing matters, i.e., providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not present at meetings or part of meetings, when matters of party business are to be discussed.
- 3.5 Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions in any way and it is essential that they are not interpreted or acted upon as such.
- 3.6 Any request for advice, together with the advice given to a political group or councillor will be treated with strict confidentiality by the Officers concerned and will not be accessible to any other political group. Factual information upon which any advice is based is available to all political groups.
- 3.7 It must not be assumed by any political group or councillor that any officer is supportive of any policy or strategy developed because of that officer's assistance in the formulation of that policy or strategy.
- 3.8 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- 3.9 Where officers provide information and advice to a party group in relation to a matter of Council business, this cannot act as a substitute for providing all

necessary information and advice to the relevant Council meeting (or meeting of any committee or sub-committee) when the matter in question is considered.

- 3.10 It is not the practice for officers to attend party group meetings and attendance is unlikely to be approved. Any request for an officer to attend any party group meeting must be made to the Chief Executive.
- 3.11 Special care needs to be exercised by officers in providing information and advice to party group meetings which include persons who are not councillors of the Council. Persons who are not councillors are not bound by the Code of Conduct for Councillors (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, officers may not attend and /or give advice to such meetings.
- 3.12 In relation to budget proposals:
- the Controlling group shall be entitled to confidential discussions with officers regarding options and proposals. These will remain confidential until determined by the controlling group or until published in advance of Committee or Council meetings, whichever is the earlier; and
 - the Opposition group(s) shall also be entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition group(s) or until published in advance of Committee or (full) Council meetings, whichever is the earlier.
- 3.13 Any particular case of difficulty or uncertainty in this area of Officer advice to party groups must be raised with the Chief Executive who will discuss the matter with the relevant group leader(s).

4. COUNCILLORS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 4.1 The following paragraphs identify arrangements for councillors' access to information and documents beyond that set out in the Access to Information Rules in Part 4(2) of the Constitution. It is important to note that such access only applies where councillors are undertaking Council business. Where a councillor has a private or personal interest in a matter, the councillor will only be entitled to the same access to documents as would be the case for a private individual. In these circumstances the councillor must make it clear to the employee that he/she is acting on his/her own behalf and not acting as a Councillor.

Councillor's access to Officers

- 4.2 Whilst any councillor may ask a relevant Head of Service, Chief Officer or the Chief Executive for written factual information about a council service, such requests must be reasonable and not seek information relating to specific case work or items of a similar nature, such as employment matters.

Requests will be met subject to any overriding legal considerations (which will be determined as appropriate by the Chief Executive, LGSS Legal Services or the Monitoring Officer). Requests may be refused if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a councillor requesting such information is dissatisfied by the refusal, he or she should raise the matter in the first place with the relevant Head of Service, and if still dissatisfied, should raise the matter with the Monitoring Officer who will discuss the issue with the relevant group leader.

- 4.3 Councillors are normally free to approach any section of the Council to provide them with such information, explanation and advice about that section's functions as they may reasonably need in order to assist them in discharging their role as councillors of the Council or any particular role to which they have been appointed by the Council. This can range from a request for general information or research about some aspect of a section's activities to a request for specific information on behalf of a constituent. However, councillors should be aware that, whatever the intention of councillors, junior officers may be overawed by the approach of a councillor and feel obliged to share information or an opinion, or carry out actions as a result, which a senior officer would consider incorrect or inappropriate. Junior offices may therefore wish to seek advice from a senior officer before responding and councillors should respect this.
- 4.4 If a pattern of behaviour by a councillor causes significant issues for junior officers, the Chief Executive or Monitoring Officer may require a councillor to restrict contact and requests for information to the relevant Head of Services. In such cases councillors, therefore, should not, approach or discuss an issue with a junior officer without the prior knowledge and consent of their Head of Service.

Member's access to documents

- 4.5 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 4.6 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 or Committee meeting. This 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 that meeting, but also to any relevant background papers. Members of the Council who do not receive "pink papers" as serving Members on a particular Committee or Sub-Committee can see "pink papers" on request provided that they do not have a Disclosable Pecuniary or 'other' interest in the subject matter of the report.
- 4.7 The common law right of councillors is much broader and is based on a presumption in favour of any councillor being able to inspect Council documents so far as his or her access to the documents is reasonably necessary to enable the councillor properly to perform his or her duties as a

councillor of the Council. This principle is commonly referred to as the “need to know” principle.

- 4.8 The exercise of this common law right depends therefore upon the councillor’s ability to demonstrate that he/she has the necessary “need to know”. In this respect a councillor 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”.
- 4.9 This question must initially be determined by the particular service manager whose section holds the document in question (with advice from the Chief Officer, Chief Executive or Monitoring Officer as necessary). In the event of dispute, the question falls to be determined by the relevant meeting i.e. the meeting in connection with whose functions the document is held.
- 4.10 In circumstances not related to the business of a Council or Committee meeting (e.g. a councillor wishing to inspect documents which contain personal information about third parties) a councillor will normally be expected to justify the request in specific terms. Furthermore, there will be a range of documents which, because of their nature are either not accessible by councillors or are accessible only by the political group forming the administration and not by the other political groups. An example of this latter category would be draft document compiled in the context of emerging Council policies and draft committee reports, the premature disclosure of which might be against the Council’s and the public interest.
- 4.11 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 councillor 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.

5. CONFIDENTIALITY

- 5.1 Any Council information provided to a councillor, orally, in writing or via a copy document, must only be used by the councillor for the purpose for which it was provided i.e. in connection with the proper performance of the councillor’s duties as a councillor of the Council. Early drafts of Committee reports and briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. Confidential information provided to councillors should not be discussed with, or released to, any other persons.
- 5.2 A Councillor necessarily acquires much information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. A councillor should never disclose or use confidential information for the personal advantage of him/herself or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.

6. OFFICER AND CHAIRMAN RELATIONSHIPS

- 6.1 It is clearly important that there should be a close working relationship between the Leader of the Council, the Chairmen of the Council's committees and the Council's Chief Officers and other senior officers who deal with their meetings. 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 with other councillors and other party groups.
- 6.2 Whilst the person presiding over a meeting and group spokesmen 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 a Chief Officer will be under a duty to submit a report on a particular matter. Similarly, a Chief Officer or other senior officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising between a Chairman and a Chief Officer in this respect should be referred to the Chief Executive for resolution as appropriate.
- 6.3 In relation to action between meetings, it is important to remember that the law only allows for decisions relating to the discharge of functions to be taken by a meeting of the Council or a committee of the Council or an officer. No decision can be taken by a Chairman alone or indeed by any other single councillor.
- 6.4 At some meetings a resolution may be passed which authorises named Officers to take action between meetings in consultation with the Chairman or other named councillors. It must be recognised that it is the Officer, rather than that councillor, 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 their line manager and Chief Officer and that whilst officers should always seek to assist a Chairman (or indeed any councillor) they must not in so doing, go beyond the bounds of whatever authority they have been given by their Chief Officer. Officers will seek advice from their Chief Officer as necessary and appropriate, and councillors should not put staff in a position where there would be conflict between themselves and their manager and/or Chief Officer.

7. INVOLVEMENT OF WARD COUNCILLORS

- 7.1 When a public meeting (or local exhibition) is organised by the Council to consider, or consult on, a local issue, all the councillors representing the Ward or Wards involved should be invited to attend the meeting. Similarly when the Council undertakes any form of consultative exercise on a local issue, the Ward councillor(s) should be informed, as appropriate, if they are not already directly involved.

8. CLOSE COUNCILLOR AND OFFICER RELATIONSHIPS

- 8.1 The Council recognises that there may be long-standing or close social or personal relationships between councillors and officers, which commenced before or after a councillor was elected to the Council or before or after a person became employed by the Council. For a large employing organisation, operating within a community comprising small towns and villages this may be inevitable or unavoidable. In such circumstances, the Councillor should disclose the relationship to his or her Group Leader and the Chief Executive (who will inform the Monitoring Officer) and the employee should disclose the relationship to his or her Chief Officer. The Monitoring Officer will arrange for such relationship to be entered as declarations in the Register of Councillor and Officer Interests respectively.
- 8.2 In order to maintain the integrity of the individuals concerned and of the Council, it is important that such relationships are not hidden. To do so can lead to suspicion and mistrust. The group leaders and Chief Officers will endeavour to ensure that neither the councillor nor the employee is placed in a position where such a relationship between the councillor and the officer might conflict (or be perceived to conflict) with the remaining provisions of this Protocol.

9. SUPPORT SERVICES TO COUNCILLORS AND PARTY GROUPS

- 9.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport etc) to councillors is to assist them in discharging their role as Councillors. Such support services must therefore only be provided for and used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

10. CORRESPONDENCE

- 10.1 Correspondence between an individual Councillor and an Officer on a matter relating to a single constituent should not normally be copied by the Officer to any other councillor. Where circumstances make it necessary to copy the correspondence to another councillor, this should be made clear to the original councillor and any personal data redacted in line with the provisions of the Council's Data Protection Policy. a system of "silent or blind copies" should not be employed.
- 10.2 In some cases issues are raised by, or with, individual councillors relating to a matter of general interest in a District Council Ward or particular Parish or Town. Recognising that it is in the best interests of the Council to ensure that all councillors are properly informed of general issues in their Ward/Parish or Town, copies of correspondence will normally be sent to all councillors for the particular area unless the councillor specifically requests that correspondence is not copied to other councillors, or there is a political, data protection or other reason, why this is not appropriate. Where correspondence is copied to other councillors this will be made clear to the original councillor.

- 10.3 Official letters on behalf of the Council should be sent out in the name of the appropriate Officer, rather than in the name of a councillor. It will be appropriate in certain circumstances, such as representations to a Government Minister, for a letter to be signed by the Leader or by the group leaders jointly, but this is the exception rather than the norm. Letters which create obligations or give instructions on behalf of the Council should never be sent out in the name of a councillor.
- 10.4 Correspondence by the Chairman of the Council on civic matters or ceremonial occasions is signed by the Chairman of the Council.

11. PUBLIC RELATIONS AND PRESS RELEASES

- 11.1 The Council's public relations and press office function serves the Council as a whole and must operate within the law. In particular it must comply with the Local Government Act 1986 and the national code on Local Government Publicity, which prohibit the Council from publishing material which appears to be designed to affect public support for a political party. Particular care must be taken at the time of a general or local election.
- 11.2 Official statements on behalf of the Council and Council press releases are drafted by Officers and distributed by them to the media. Such releases will often contain quotations (within the limits of the Local Government Act 1986) from the Leader of the Council (as the Council's principal public spokesman), the Chairman or Vice-Chairman of the committee or sub-committee whose service is involved, from opposition spokesmen as appropriate, and from the Chairman and Vice Chairman of the Council about ceremonial events. Such press releases are issued on behalf of the Council and it is not, therefore, appropriate when publishing quotations from councillors to indicate their party political affiliation.
- 11.3 Councillors of the Council are free to deal direct with the media on their own behalf in matters relating to their role as a ward councillor. Councillors attending or representing the Council at meetings of outside bodies may not issue statements to the press on behalf of the Council in advance of any consideration of the matter by the council or the outside body.
- 11.4 Council Officers will advise and assist councillors in responding to the press or media in carrying out their role as councillors.
- 11.5 The Council's Media Policy is appended to this Constitution.

12. CEREMONIAL EVENTS

- 12.1 The Chairman of the Council or in his/her absence the Vice-Chairman will be the appropriate person to lead District Council ceremonial events and events which are not specifically associated with a particular committee.

- 12.2 Subject to paragraph 12.1, the Leader of the Council or Chairmen of Committees or, where they are not available, the Vice-Chairmen of Committees are the appropriate representatives for ceremonial events within the scope of their meeting's functions. If such persons are unavailable, another councillor may be nominated by the Chairman or Vice-Chairman.
- 12.3 Local councillors should always be informed of, and, where possible, invited to, ceremonial events taking place within their own parishes/towns, as should County and Parish/Town Councillors as appropriate.
- 12.4 Publicity for such events is organised by the Council's press office. Any councillor taking part in a ceremonial event must not seek disproportionate personal publicity or use the occasion for party political advantage bearing in mind that the councillor is representing the Council as a whole.
- 12.5 Gifts received in the name of the council by the Chairman of the Council or the Vice Chairman or another councillor undertaking an official engagement or otherwise on Council business (unless of a personal or insignificant nature) are the property of the Council and must be handed to the Council. Gifts of a personal or insignificant nature should be treated in accordance with the code of conduct.

13. CONCLUSION

- 13.1 Mutual understanding and openness on these sort of sensitive issues and basic respect between colleagues are the greatest safeguard of the integrity of the Council, its Councillors and Officers.
- 13.2 Copies of this Protocol will be issued to all councillors of the Council on their election.
- 13.3 Questions as to the interpretation of this Protocol will be determined by the Monitoring Officer.

Amended by Council 11 January 2010 minute 311(a); Amended by Council 16 July 2012 minute 108; Amended by Council 13 January 2014 minute 319; Amended by Council 23 January 2017 minute 371; Amended by Council 22 July 2019 minute 111