



# Leigh-on-Sea Town Council

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**Chairman:** Cllr Keith Evans | **Vice Chairman:** Cllr Dr David Bowry

**Town Clerk:** Helen Symmons PSLCC



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## \*Protocol on Member/Officer Relations

### 1. Background

This protocol is intended to assist Councillors and Officers, in approaching some of the sensitive circumstances which arise in a challenging working environment.

The reputation and integrity of the Council is significantly influenced by the effectiveness of Councillors and Officers working together to support each other's roles.

The aim is effective and professional working relationships characterised by mutual trust, respect and courtesy. Overly close personal familiarity between Councillors and Officers is not recommended as it has the potential to damage this relationship.

### 2. Roles of Councillors and Employees

Councillors and Officers are servants of the public and they are indispensable to one and other, but their responsibilities are distinct.

Councillors are responsible to the electorate and serve only for their term of office.

Officers are responsible to the Council. The Officers' job is to give advice to Councillors and to the Council, and to carry out the Council's work under the direction and control of the Council and relevant Committees.

#### 2.2 Councillors

Councillors have four main areas of responsibility:

- To determine Council policy and provide community leadership;
- To monitor and review Council performance in implementing policies and delivering services;
- To represent the Council externally; and
- To act as advocates for their constituents.

All Councillors have the same rights and obligations in their relationship with the Officer regardless of their status and should be treated equally.

Councillors should not involve themselves in the day to day running of the Council. This is the Officer's responsibility, and the Officer will be acting on instructions from the Council or its Committees, within an agreed job description.

In line with the Councillors' Code of Conduct, a Councillor must treat others with respect, must not bully or harass people 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 Chairmen and Vice-Chairmen of Council and Committees

Chairmen and Vice-Chairmen have additional responsibilities as delegated by the Council. These responsibilities mean that they may have to have a closer working relationship with employees than other Councillors do. However, they must still respect the impartiality of Officers and must not ask them to undertake work or anything else which would prejudice their impartiality.

### 2.4 Officers

The primary role of Officers is to advise, inform and support all members and to implement the agreed policies determined by the Council.

Officers are responsible for day to day managerial and operational decision within the council, including directing and overseeing the work of any more junior officers. Council should avoid inappropriate involvement in such matters.

In performing their role, Officers will act professionally, impartially and with neutrality. Whilst Officers will respect a Councillor's view on an issue, the Officer should not be influenced or pressured to make comments, or recommendations which are contrary to their professional judgement or views.

In giving such advice to Councillors, and in preparing and presenting reports, it is the responsibility of the Officer to express his/her own professional views and recommendations. An Officer may report the views of individual Councillors on an issue, but the recommendation should be the Officer's own. If a Councillor wishes to express a contrary view they should not pressurise the officer to make a recommendation contrary to the officer's professional view, nor victimise an officer for discharging his/her responsibilities.

Officers must:

- Implement decision of the Council and its Committees which are lawful, which have been properly approved in accordance with the requirements of the law and are duly recorded. This includes respecting the decision made, regardless of any different advice given to the Council or whether the decision differs from the Officer's view.
- Work in partnership with Councillors in an impartial and professional manner
- Treat Councillors fairly and with respect, dignity and courtesy
- Treat all Councillors, partners and members of the public equally, and not discriminate based on any characteristic such as age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- Assist and advice all parts of the Council. Officer must always act to the best of their abilities in the best interest of the authority as expressed in the Council's formal decisions.
- Respond to enquiries and complaints in accordance with the Council's standards protocol.
- Be alert to issues which, or are likely to be, contentious or politically sensitive, and be aware of the implications for Councillors, the media or other sections of the public
- Act with honesty, respect, dignity and courtesy at all times.
- Provide support and learning and development opportunities for Councillors to help them in performing their various roles in line with the Council's training and development policy
- Not to seek to use their relationship with Councillors to advance their personal interests or to influence decisions improperly
- To act within the policies, practices, processes and conventions established by the Council

Officers have the right not to support councillors in any role other than that of councillor, and not to engage in actions incompatible with this Protocol.

There are exceptional circumstances where a councillor can fulfil the role of officer, for example where there is a vacancy. This can only be done if the councillor is not paid for the role and should only ever be short-term while the council seeks to fill a vacancy. There will need to be a particular clear understanding of when the councillor is acting as a councillor and when acting as the Proper Officer

## 2.5 The Relationship: General

Councillors and officers are indispensable to one another. However, their responsibilities are distinct. Councillors are accountable to the public, whereas officers are accountable to the council as a whole.

At the heart of this Protocol is the importance of mutual respect and also of civility. Councillor/officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between councillors and officers should observe standards of courtesy and neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party.

Individual councillors should not actively seek to undermine majority decision for the corporate body, as this could then bring them into conflict with officers who have been charged with promoting and implementing the council's collectively-determined course of action.

Councillors should not raise matters relating to the conduct or capability of an officer, or officers collectively, in a manner that is incompatible with the Protocol at meetings held in public or on social media. This is a long-standing tradition in public service. An officer has no means of responding to criticisms like this in public.

A councillor 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 chair

Neither should an officer raise with a councillor matters relating to the conduct or capability of another councillor or officer or to the internal management of the council in a manner that is incompatible with the objective of this Protocol.

## 3. Expectations

### 3.1 All Councillors can expect:

- a commitment from Officers to the Council as a whole, and not to any individual Councillor, group of Councillor's or political group;
- a working partnership;
- Officers to understand and support respective roles, workloads and pressures;
- A timely response from Officers to enquiries and complaints;
- Officer's professional advice, not influenced by political views or personal preferences;
- Timely, up to date, information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities or positions that they hold;
- Officers to be aware of and sensitive to the public and political environment locally;
- Respect, courtesy, integrity and appropriate confidentiality from Officers;
- training and development opportunities to help them carry out their role effectively;
- not to have personal issues raised with them by Officers outside the council's agreed procedures;
- that Officers will not use their contact with Councillors to advance their personal interests or to influence decisions improperly;
- that Officers will at all times comply with the relevant Employee Code of Conduct within the Staff Handbook.

- That Officers will not use their contact with councillors to advance their personal interests or to influence decision improperly

### 3.2 Officers can expect from Councillors:

- To work constructively in partnership with Officers acknowledging their separate and distinct roles and responsibilities;
- an understanding of, and support for, respective roles, workloads and pressures;
- leadership and direction;
- to treat them fairly and with respect, courtesy, integrity
- to act with integrity to give support and to respect appropriate confidentiality;
- not to be bullied or to be put under undue pressure;
- that Councillors will not use their position or relationship with Officers to advance their personal interests or those of others or to influence decisions improperly;
- that where Councillors are responsible for delivering a task that this should be expedited in a timely manner in order to meet any required deadlines;
- that Councillors will at all times comply with the Council's adopted Code of Conduct.
- Strategic leadership and direction and to seek to further their agreed policies and objectives with the understanding that councillors have the right to take the final decision on issues based on advice
- To act within the policies, practices, processes and conventions established by the Council

### 3.3 Some General Principles:

Close personal relationships between councillors 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 in others that particular councillor or officer is getting preferential treatment.

Special relationships with particular individuals or party political groups are not recommended as it can create suspicion that an employee favours that Councillor or political group above others.

When Councillors and Officers are together, neither should make disrespectful remarks about Councillors or Officers.

The Proper Officer (usually called the Clerk) is the head of paid services and has a line-management responsibility to all other staff. Communications should be made directly with the Proper Officer, unless it is agreed by the Proper Officer that such communication may take place directly with other officers over a particular matter. Councillors should not give instructions directly to the Proper Officer's staff without the express approval of the Proper Officer.

## 4. Political Groups

- 4.1 The operation of political groups is becoming more of a feature within Parish and Town Councils, but it is worth repeating that it is NALC policy that party politics should have no place in Parish and Town councils. Parish and Town Councillors are there to serve their community as members of the community, and should not be side tracked by party political issues. Party politics within a Parish and Town council can pose particular difficulties in terms of the impartiality of the Clerk and other employees, and the relationship between Councillors and the staff generally.
- 4.2 Party political groups or groups of individual Councillors have no power to require the Clerk or any other employee to attend group meetings or to prepare written reports for them, and employees can legitimately refuse to do so. The Clerk and other Officers are responsible to the Council as a whole and should not take action under instructions from any individual Councillor, even if he/she has been styled as 'Leader' of the Council.
- 4.3 If your council has adopted party political groupings, the Clerk should ensure that any reports or advice offered to a political group are statements of relevant facts, with an appraisal of options and do not deal with the political implications of the matter or options, or make any recommendations. It is not the Clerk's job to make recommendations to a political group.

- 4.4 If a report is prepared for one political group, the Clerk should advise all other political groups that the report has been prepared, or that advice was given.
- 4.5 Any Clerk needing advice or guidance on matters relating to party groups or how to operate within a political environment, should seek advice from their County Association of NALC, or from the Society of Local Council Clerks.

## **5. Councillors' Access to information and to council documents**

Councillors are free to approach officers 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. Such approaches should normally be directed to the Officer.

The legal rights of councillors to inspect council documents are covered partly by statute and partly by the common law.

The common law right of councillors is based on the principle that any member has a prima facie right to inspect council documents so far as their access to the documents reasonably necessary to enable the member properly to perform their duties as member of the council. This principle is commonly referred to as the 'need to know' principle

The exercise of this common law right depends therefore upon the councillor's ability to demonstrate that they have 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.

In some circumstances e.g. a committee member wishing to inspect documents relating to the functions of that committee, a councillor's 'need to know' will normally be presumed. In other circumstances, 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. Any council information provided to a councillor 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 member of the council.

For completeness, councillors do, of course, have the same right as any other member of the public to make request for information under the Freedom of Information Act 2000.

## **6. Correspondence**

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 at the foot of any e-mails if another councillor has received an e-mail by adding "CC councillor X."

Official letters or emails on behalf of the council should normally be sent out under the name of the officer, rather than under 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 the chair, 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.

Correspondence to individual councillors from officers should not be sent or copied to complainants or other third parties if they are marked "confidential". In doing so, the relevant officer should seek to make clear what is to be treated as being shared with the councillor in confidence only and why that is so.

## 7. When things go wrong

From time to time the relationship between Councillors and the Clerk or other employees may break down or become strained. It is always preferable to resolve matters informally, it is important that the council adopts a formal grievance protocol or procedure.

The Chairman of Council should not attempt to deal with grievances or work-related performance or line management issues on their own. The Council have delegated this to the Staffing Committee under their Terms of Reference to deal with personnel matters.

The Council's Monitoring Officer may be able to offer a mediation/conciliation role or it may be necessary to seek independent advice.

The law requires all employers to have disciplinary and grievance procedures. Adopting a grievance procedure enables individual employees to raise concerns, problems or complaints about their employment in an open and fair way.

Where the matter relates to a formal written complaint alleging a breach of the councillors' Code of Conduct, the matter should be referred to the Staffing Committee who will decide whether the Council's Grievance Procedure can apply informally<sup>1</sup> or whether, the issue should be referred to the Council's Monitoring Officer as a Code of Conduct matter. Formal standards complaints about the conduct of a parish councillor towards a clerk/member of staff should be made by the Chairman or by Council as a whole, rather than the clerk/member of staff in all but exceptional circumstances. Examples of exceptional circumstances are:

- When the standards complaint relates to the Chairman of Council;
- When the standards complaint relates to more than one Councillor;
- When the standards complaint cannot wait until the next full Council meeting

If a councillor is dissatisfied with the conduct, behaviour or performance of the officer or another employee, and a formal complaint is raised by a Councillor against a member of staff, then the matter will be dealt with in accordance with the Council's Disciplinary Procedure.

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<sup>1</sup> R(Harvey) v Ledbury Town Council 2018