

TENBURY TOWN COUNCIL



Member – Officer Protocol

July 2017

1. Background

- 1.1 This protocol is intended to assist Councillors and the Clerk, in approaching some of the sensitive circumstances, which arise in a challenging working environment.
- 1.2 The reputation and integrity of the Council is significantly influenced by the effectiveness of Councillors, the Clerk and other staff working together to support each other's roles.
- 1.3 The aim is effective and professional working relationships characterised by mutual trust, respect and courtesy. Close personal familiarity should be avoided.

2. Roles of Councillors and Employees

- 2.1 The respective roles of Councillors and Employees can be summarised as follows:

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 as long as their term of office lasts.

Officers are responsible to the Council. Their 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.

Appendix A details the role and responsibilities of the Council team.

2.2 Councillors

- 2.2.1 Councillors have four main areas of responsibility:

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

- 2.2.2 All Councillors have the same rights and obligations in their relationship with the Clerk and other employees, regardless of their status or political party, and should be treated equally.

- 2.2.3 Councillors should not involve themselves in the day to day running of the Council. This is the Clerk's responsibility, and the Clerk will be acting on

instructions from the Council or its Committees, with in an agreed job description.

2.3 Chair and Vice-Chair of Committees

Committee Chairs and Vice-Chairs have additional responsibilities. These responsibilities mean that their relationships with employees may be different and more complex than those of Councillors. However, they must still respect the impartiality of Officers and must not ask them to undertake work of a party political nature, or to do anything that would prejudice their impartiality.

2.4 Officers

The role of Officers is to give advice and information to Councillors and to implement the policies determined by the Council

In giving such advice to Councillors, and in preparing and presenting reports, it is the responsibility of the Officer to express 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 her responsibilities.

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 Councillors 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;
- Regular, up to date, information on matters that can be reasonably be considered appropriate and relevant to 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 of 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 Officer's will at all times comply with the relevant Code of Conduct.

3.2 Officers can expect from Councillors:

- A working partnership;
- An understanding of, and support for, respective roles, workloads and pressures;
- Leadership and direction;
- Respect, courtesy, integrity and 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 Councillors will at all times comply with the Council's adopted Code of Conduct.

3.3 General Principles:

- Close personal relationships between Councillors and Officers can confuse their separate roles and get in the way of proper conduct of Council business, not least by creating a perception in others that a particular Councillor or Officer is getting preferential treatment.
- Special relationships with particular individuals or party political groups should be avoided as it can create suspicion that an employee favours that Councillor or political group above others.

4. Political Groups

- 4.1 The operation of political groups is becoming more of a feature within parish councils, but it is worth noting that it is NALC policy that party politics should have no place in parish councils. Parish 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 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 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 the 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 If the Clerk needs advice or guidance on matters relating to party groups or how to operate within a political environment, advice should be sought from Worcestershire CALC or from the Society of Local Council Clerks.

5. When Things Go Wrong

- 5.1. From time to time the relationship between Councillors and the Clerk (or other employees) may break down or become strained. Whilst it is always preferable to resolve matters informally, through conciliation by an appropriate third party, it is important that the Council adopts a formal grievance protocol or procedure.
- 5.2 The District Council's Monitoring Officer may be able to offer a mediation/conciliation role or it may be necessary to seek independent advice. The Chair of the Council should not attempt to deal with grievances or work related performance or line management issues on their own. The Council should delegate authority to a small group of Councillors to deal with all personnel matters.
- 5.3 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.
- 5.4 If a Councillor is dissatisfied with the conduct, behaviour or performance of the Clerk or another employee, the matter should be raised with the Clerk in the first instance. If the matter cannot be resolved informally, it may be necessary to invoke the Council's disciplinary procedure.
- 5.5 A Councillor should not raise matters relating to the conduct or capability of an Officer at meetings held in public. An Officer has no means of responding to such criticism in public.

6. Access to Information and to Council Documents

- 6.1 Whilst any Councillor may ask an Officer for written factual information about a service, such requests must be reasonable. Requests will be met, subject to any overriding legal considerations (such as Data Protection Act). Councillors are free to approach Officers to ask for information in accordance with the above consideration. This right extends to such information, explanation and advice as they may reasonably need in order to assist in discharging their role.

- 6.2 As regards the legal rights of Councillors to inspect Council documents, these are covered partly by statute and partly by common law.
- 6.3 Councillors have a statutory right to inspect any Council document that contains material relating to any business which is transacted at a Council or other meeting. This right applies irrespective of whether the Councillor is a member of the body which is meeting and extends not only to reports which are submitted to the meeting, but also to any relevant background documents. This right does not, however, automatically apply to background documents relating to certain items that may appear as an exempt item on the agenda e.g. information relating to employees.
- 6.4 The common law right of Councillors is based on the principle that any Councillor has a prima facie right to inspect Council documents so far as access to the document is reasonably necessary to enable the Councillor to perform their duties as a Member of the Council.
- 6.5 Any Council information provided to a Councillor must only be used by the Member for the purpose for which it is provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council. Any document provided for a Councillor and marked as 'Confidential' or 'Not For Publication' shall be exclusively for the use of that Councillor and shall not be disclosed to any other person.

7. Correspondence

- 7.1 Official letters on behalf of the Council should be sent in the name of the appropriate Officer, rather than the name of a Councillor. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor

A. THE TEAM – COUNCIL & CLERK

1. Council and Clerk work as a team with mutual respect.
2. Council sets the policy framework within which the Clerk operates its functions and delivery of its services.
3. Should be open, transparent and accountable in all actions.

B. THE COUNCILLOR

1. Must sign the Declaration of Office and Undertaking.
2. Must abide by the Code of Conduct.
3. Must declare interests at meetings.
4. Must keep Register of Interests updated.
5. Should attend Council meetings.
6. Should read all papers.
7. Should attend training as a commitment of office.
8. Should represent all sectors of the community
9. Individual Councillors should not get involved with contracts or contractors.
10. Should understand these roles and responsibilities.

C. THE COUNCIL

1. Statutory local authority and corporate body.
2. Seeks to deliver and influence others regarding the needs and aspirations of its community as a whole.
3. Must spend money only within prescribed powers.
4. Must meet at least 4 times per year.
5. Must appoint a proper officer (Clerk), RFO and Internal Auditor.
6. Must act within the law e.g. health and safety, employment, discrimination issues et al.
7. Agrees policy, budget and precept.
8. Owns and must adopt the accounts, ensuring proper records are kept.
9. Must complete an Annual Return.
10. Adopts and abides by Standing Orders and Scheme of Delegation.
11. Must adopt the Code of Conduct.
12. Must adopt and abide by Financial Regulations.
13. Monitors the implementation of its policies and delivery of services.

D. THE CHAIR

1. Controls the meeting: authority at meetings must be obeyed.
2. Acts as civic representative
3. Ensures decisions are clear for Clerk to act upon
4. Has no powers to act alone – must not be a committee of one.
5. Must sign a Declaration of Office.

6. May use casting (second) vote.
7. Must chair the Parish Council Meeting if present.
8. Must chair the Annual Parish Meeting if present,
9. Must be elected at the Annual Parish Meeting of the Parish Council as first item of business.
10. Ensures that decisions are made by three or more Councillors meeting together in public except where decisions are delegated to Clerk.
11. Ensure agenda properly served and clear.
12. Should be adequately briefed and well read.
13. Starts meeting on time.
14. Gives every Councillor chance to speak.
15. Keeps discussion to the point.
16. Understands principles of debate and voting.
17. Remains impartial.
18. Creates an atmosphere that encourages debate.
19. Ensure Clerk has: proper Job Description and Contract of Employment; a regular appraisal; proper pay with NIC and PAYE; and receives expenses.

E. THE CLERK

Is the Council's Proper Officer, Chief Executive, HR Manager, Contracts Manager, RFO (usually), Services Manager....

1. Implements and monitors Council policy.
2. Ensures Council acts within the law.
3. Advises the Council on all aspects of its work.
4. Have delegated powers of decision making.
5. Have delegation for urgent decisions and payments.
6. Manages Council's resources.
7. Administers finances for audit.
8. Deals with electors.
9. Oversees and manages other employees.
10. Keeps up to date with all aspects of business – includes attending training.
11. Prepares agendas and minutes.
12. Reads and summarises all reports.
13. Prepares and posts notices.
14. Keeps the Council's records.
15. Deals with all correspondence.
16. Issues the Precept.
17. Balances the accounts and prepares for audit.
18. Organises the Council's insurances.
19. Organises NIC, PAYE and pensions for all staff.
20. Receives all goods and pays invoices.
21. Deals direct with all contractors and suppliers.

Tenbury Town Council

DIGNITY AT WORK

MEMBER-OFFICER PROTOCOL

1. References in this document to the “Clerk” relate to the Town Council’s officer known as the Town Clerk and Responsible Finance Officer.
2. A Parish or Town Council is a Statutory Local Authority which usually employs a Clerk and may employ other Officers. Every appointment to paid employment must be on merit.
3. The Clerk is the Council’s Proper Officer and Chief Executive. S/he should guard against inappropriate public statements, and, in particular, should not act in a party-political capacity within the parish.
4. Officers must be politically neutral: they are employed by the Council as a corporate body, not by Committees or individual Councillors. The political neutrality of Officers should be respected. They should not be asked to play any role or undertake any task that is likely to prejudice that neutrality.
5. All Members of the Council (Councillors) have a right of access to the Clerk. Where a Member requires information, it will be provided if it is readily available; for example, in Council or Committee papers or material published on behalf of the Council. The Clerk is free to give advice on a confidential basis about procedural matters to any Member.
6. The Clerk must be free at all times to seek advice from the County Association of Local Councils and/or other appropriate bodies on matters concerning the proper exercise of his/her duties.
7. Councillors should recognise that, in order for Officers to properly carry out their duties, appropriate training and reference material are required.
8. Councillors and employees must understand that Council decisions can only be made by full Council, Committees or Clerk acting under delegated authority. The law does not allow for decisions relating to the discharge of any of the Council’s functions to be taken by a Chairman or indeed by any other single Councillor. Councillors and employees must ensure that representations made to the Council on any matter during any stage of the formal decision-making process should be directed to the Council or appropriate Committee *via the Clerk*.
9. Reports to Council and Committees should be written by the Clerk or another authorised Officer.
 - 9.1 If the Chairman or another Member in exceptional circumstances is unhappy with its contents, it should not be amended by the Chairman or another Member, save with the express approval of the Clerk.
 - 9.2 In most cases, discussion between the Chairman and the Clerk will resolve any disagreement over a report; however, if the Clerk’s report is not regarded as appropriate by the Chairman, then exceptionally the Chairman should write his or her own report in addition to the report submitted by the Clerk. The Chairman should, under no circumstances, use undue pressure to persuade the Clerk to withdraw the original report.
10. Mutual respect between Officers and Councillors is essential to good local government. If the Clerk is closely related to a Councillor, then they must be especially careful to ensure that their official dealings are open and transparent.

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11. Where the Clerk works from home, Councillors must respect agreed practical arrangements for liaison with the Clerk.
12. In line with the Code of Conduct's reference to treating others with respect, it is important that any dealings between Councillors and Officers should observe reasonable standards of courtesy:
 - 12.1 Neither party should seek to take unfair advantage of their position;
 - 12.2 Employees whether individually or collectively, should not be the subject of attacks or criticism;
 - 12.3 Councillors should avoid naming individual employees, if at all possible, and neither Councillor nor employee should resort to the media to resolve a disagreement between them.
13. The Code of Conduct also requires the promotion of equality by not discriminating unlawfully against any person:
 - 13.1 Council will regard as a serious offence actions by an employee or a Councillor which amount to work-related bullying, harassment, discrimination against or victimisation of any employee or Councillor and particularly so where such action is on the grounds of race, gender or disability.
 - 13.2 Bullying can take the form of shouting at an individual, making persistently negative attacks on an individual's personal or professional performance, criticising an individual in front of others, persistently setting objectives with impossible deadlines or unachievable tasks, excessive monitoring of an individual's performance or withholding information with the intent of deliberately affecting an individual's performance.
14. Confidentiality is often vitally important, and must be respected by Councillors and Officers at all times. A breach of confidentiality may have serious implications for the individual Councillor or Officer who "leaks" the information.
15. It is the duty of the Clerk to ensure that the work and responses of employees are conducive to and not undermining of, the foregoing general principles. They are entitled to expect Members to respect political restriction and the duties and limitations of employees.
16. It is also the duty of the Clerk to arrange matters so that other employees properly understand the roles of Members and employees and the Council's required approaches to the relations between them. They are also entitled to expect Members to respect the degree of seniority of employees who are answerable to the Council via the Clerk and not an individual Councillor.
17. Official correspondence on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of the Councillor. It may be appropriate in certain circumstances (eg. representations to a Government Minister, or on behalf of the Chairman in his/her Civic capacity) for a letter to appear in the name of the Councillor, but this should be the exception rather than the norm. Letters which for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

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18. Complaints of alleged breaches of this protocol will be dealt with under the Council's Complaints Procedure. The Councillor concerned may be censured and/or reported to the Standards Board for breach of the Code of Conduct. The employee concerned may face disciplinary action.

Signed.....

Date adopted by Town Council:

Date of Review: