

DOWNTON
PARISH COUNCIL



Councillor/Officer Protocol
Adopted May 2021 Minute XX

1. INTRODUCTION

- 1.1. This protocol for Councillor/Officer relations has been produced to assist councillors and officers in their understanding that the relationship between elected councillors and officers is one of partnership.
- 1.2. Councillors are democratically accountable. Officers must serve the whole Council objectively. Together they must balance a complex range of obligations and competing interests. For this to be effective, Councillors and Officers must have mutual trust and respect for each other's requirements and duties. There is also a need for a transparent consistency in everyday working relations.

2. PRINCIPLES

- 2.1. Councillors and officers must at all times observe this protocol.
- 2.2. The protocol has been approved by the Council and will be monitored.
- 2.3. The protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest of personal conduct.
- 2.4. Councillors and officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.
- 2.5. Whilst councillors and officers are indispensable to one another, their responsibilities are distinct. Councillors are accountable to the electorate and serve only as long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to councillors (individually and collectively) and to carry out the Council's work under the direction of the Council.
- 2.6. The Council has adopted a code of conduct for councillors which represents best practice. The Code follows the national code which in turn is based on the general principles governing councillors' conduct enshrined in law.

3. THE ROLES OF COUNCILLORS

- 3.1. Councillors have a number of roles and need to be alert to the potential for conflicts of interest which may arise between those roles. Where such conflicts are likely, councillors may wish to seek the advice of senior colleagues, the Parish Clerk and/or Wiltshire Council's Monitoring Officer. Collectively, councillors are the ultimate policy-makers determining the core values of the Council and approving its policy framework, strategic plans and budget. Councillors represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
- 3.2. Every elected councillor represents the interests of, and is an advocate for their

ward and individual constituents. They represent the Council in the ward, respond to the concerns of constituents, meet with partner agencies, and often serve on local bodies.

- 3.3. Some councillors have roles relating to their position as councillors of committees and sub- committees of the Council.
- 3.4. Councillors who serve on committees and sub-committees collectively have delegated responsibilities.
- 3.5. Some councillors may be appointed to represent the Council on local, regional or national bodies.
- 3.6. Councillors may express the values and aspirations of the party political groups to which they belong, recognising that in their role as councillors they have a duty always to act in the public interest.
- 3.7. Councillors are not authorised to instruct officers other than:
 - a. Through the formal decision-making process
 - b. To request the provision of consumable resources provided by the Council for councillors' use
 - c. Individual Councillors are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council. Authorised signatories however may sign cheques.
- 3.8. Councillors must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Councillors have an obligation under their code of conduct to have regard when reaching decisions to any advice provided by officers.
- 3.9. Councillors must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change their professional advice.
- 3.10. Councillors have a duty under their code of conduct to promote equality by not discriminating unlawfully against any person and to treat others with respect.
- 3.11. Under the code, a councillor must not, when acting as a councillor or in any other capacity bring the Council or their position as a councillor into disrepute, or use their position as a councillor improperly to gain an advantage or disadvantage for themselves or any other person.

4. THE ROLES OF OFFICERS

- 4.1. Officers are responsible for giving advice to councillors to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.
- 4.2. Under the direction and control of the Council, officers, led by the Parish Clerk, manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 4.3. Officers have a duty to implement decisions of the Council, committees and sub-

committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and are duly minuted.

- 4.4. Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 4.5. Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the Council as expressed in the Council's formal decisions.
- 4.6. Officers must be alert to issues which are, 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.
- 4.7. Officers have the right not to support councillors in any role other than that of councillors, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on officers' involvement in political activities.

5. THE RELATIONSHIP BETWEEN COUNCILLORS AND OFFICERS: GENERAL

- 5.1. The conduct of councillors and officers should be such as to instil mutual confidence and trust.
- 5.2. The key elements of this relationship are recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 5.3. Informal and collaborative two-way contact between councillors and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection.
- 5.4. It is not enough to avoid impropriety. Councillors and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a councillor should not sit on a body or participate in any decision which directly affects the officer on a personal basis.
- 5.5. Officers serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.
- 5.6. Officers work to the instructions of their senior officers, not individual councillors. It follows that, whilst such officers will always seek to assist a councillor, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, councillors should normally direct their requests and concerns to the Parish Clerk, at least in the first instance.
- 5.7. Officers will do their best to give timely responses to councillors' enquiries. However, officers should not have unreasonable requests placed on them.

Their work priorities are set and managed by the Parish Clerk. Councillors should avoid disrupting officers' work by imposing their own priorities.

- 5.8. Councillors will endeavour to give timely responses to enquiries from officers.
- 5.9. An officer shall not discuss with a councillor personal matters concerning them or another individual employee.
- 5.10. Councillors and officers should respect the other's free (ie non-Council) time.

6. THE COUNCIL AS AN EMPLOYER

- 6.1. Officers are employed by the Council as a whole.
- 6.2. Councillors' roles are limited to:
 - a. the appointment of specified posts;
 - b. determining human resources policies and conditions of employment;
 - c. hearing and determining appeals.
- 6.3. If participating in the appointment of officers, councillors should:
 - a. remember that the sole criterion is merit;
 - b. never canvass support for a particular candidate;
 - c. not take part where one of the candidates is a close friend or relative;
 - d. not be influenced by personal preferences;
 - e. not favour a candidate by giving them information not available to the other candidates.

7. COUNCILLORS OF OTHER COMMITTEES OR SUB-COMMITTEES AND OFFICERS

- 7.1. The Parish Clerk has the right to present reports and give advice to committees and sub-committees.
- 7.2. Councillors of a committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct officers to act.
- 7.3. At some committee or sub-committee meetings, a resolution may be passed which authorises a named officer to take action between meetings in consultation with the chair. In these circumstances it is the officer, not the chair, who takes the action and is responsible for it. A chair has no legal power to take decisions on behalf of a committee or sub-committee; neither should they apply inappropriate pressure on the officer.

8. LOCAL COUNCILLORS AND OFFICERS

- 8.1. To enable them to carry out their ward role effectively, councillors need to be fully informed about matters affecting their ward. The Parish Clerk must ensure that all relevant officers are aware of the requirement to keep local councillors informed, thus allowing councillors to contribute to the decision-making process and develop their representative role.

- 8.2. Councillors need to be mindful of their competing roles, ie acting for the Council and acting for constituents, and the possible conflicts of interest which can arise and the pressure this can bring on officer time.
- 8.3. Recognise the officers' right to suggest that work requested by an individual councillor must first be authorised by Council or a Committee or by the Clerk to Council.
- 8.4. In seeking to deal with constituents' queries or concerns, councillors should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by councillors in the requested timetable, and may need to seek instructions from their managers.

9. COUNCILLORS' ACCESS TO DOCUMENTS AND INFORMATION

- 9.1. Councillors may request the Parish Clerk to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as councillors. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:
 - a. It is in the public domain, and
 - b. It is not barred by the Data Protection Act from being provided.
 - c. Every councillor of a committee or sub-committee has a right to inspect documents about the business of that committee or sub-committee.
 - d. A councillor who is not a member of a specific committee or sub-committee, may have access to any document of that specific part of the Council provided:
 - i. They can demonstrate a reasonable need to see the documents in order to carry out their roles as a councillor (the "need to know" principle), and
 - ii. the documents do not contain "confidential" or "exempt" information as defined by the law.
 - e. Disputes as to the validity of a councillor's request to see a document on a need to know basis will be determined by the Parish Clerk. Officers should seek the Clerk's advice if in any doubt about the reasonableness of a councillor's request.
 - f. A councillor should obtain advice from the Parish Clerk in circumstances where they wish to have access to documents or information:
 - i. where to do so is likely to be in breach of the Data Protection Act, or
 - ii. where the subject matter is one in which they have an interest as defined in the councillors' code of conduct.
- 9.2. Information given to a councillor must only be used for the purpose for which it was requested.

- 9.3. Councillors and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
- 9.4. When requested to do so, officers will keep confidential from other councillors advice requested by a councillor.
- 9.5. Councillors and officers must not prevent another person from gaining access to information to which that person is entitled by law.

10. MEDIA RELATIONS

- 10.1. All formal relations with the media must be conducted in accordance with any Council agreed procedures and the law on local authority publicity.
- 10.2. Press releases or statements drafted by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy.
- 10.3. Officers will keep relevant councillors informed of media interest in the Council's activities, especially regarding strategic or contentious matters.
- 10.4. Before responding to enquiries from the media, officers will ensure they are authorised to do so.
- 10.5. If a councillor is contacted by, or contacts, the media on an issue, they should:
 - a. indicate in what capacity they are speaking (e.g. as ward councillor, in a personal capacity, on behalf of the Council, or on behalf of a party group)
 - b. be sure of what they want to say or not to say
 - c. if necessary, and always when they would like a press release to be issued, seek assistance from the Parish Clerk, except in relation to a statement which is party political in nature
 - d. consider the likely consequences for the Council of their statement (eg commitment to a particular course of action, image, allegations of jumping to conclusions)
 - e. never give a commitment in relation to matter which may be subject to claims from third parties and/or are likely to be an insurance matter
 - f. consider whether to consult other relevant councillors
 - g. take particular care in what they say in the run-up to local or national elections to avoid giving the impression of electioneering, unless they have been contacted as an election candidate or political party activist.

11. CORRESPONDENCE

- 11.1. Correspondence between an individual councillor and an officer should not be copied to another councillor unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, ie there should be no "blind" copies.
- 11.2. Official letters written on behalf of the Council should normally be in the name of the relevant officer.

- 11.3. Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a councillor.
- 11.4. All correspondence should normally be open to the inspection of the public, in accordance with the Council's adopted policies. This does not apply to correspondence written in connection with legal proceedings, contractual matters or any other matter where papers can remain "exempt" within the meaning of Schedule 12A to the Local Government Act 1972, as amended, or in breach of Data Protection legislation.

12. USE OF COUNCIL RESOURCES

- 12.1. Councillors should not put pressure on officers to provide resources or support which officers are not permitted to give. Examples are:
 - a. business which is solely to do with a political party
 - b. work associated with an event attended by a councillor in a capacity other than as a councillor of the Council
 - c. private personal correspondence
 - d. work in connection with another body or organisation where a councillor's involvement is other than as a councillor of the Council

13. COMPLAINTS ABOUT OFFICERS AND SERVICES & BREACHES BY COUNCILLORS AND OFFICERS

- 13.1. Councillors have the right to criticise reports or the actions taken by officers, but they should always:
 - a. avoid personal attacks on, or abuse of, the officer at all times
 - b. ensure that any criticism is well founded and constructive
 - c. never make a criticism in public because officers have no means of responding to criticism like this in public.
 - d. take up the concern with the officer or their line manager privately.
- 13.2. Complaints about Parish Council services should be made to the Parish Clerk.

Within 3 days the Parish Clerk will:

- a. Acknowledge the complaint, and
 - b. Say if they intend to take action, or
 - c. Say how long they need to investigate
- 13.3. Complaints of an alleged breach of this code by an officer should be raised with the Parish Clerk. Should the complaint be against the Parish Clerk, the matter should be raised with the Chair of Council in the first instance.
- 13.4. A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary procedure.
- 13.5. Councillors have a right to know if action has been taken to correct a matter, but they must not, either:
 - a. Influence the level of disciplinary action to be taken against an officer, or
 - b. Insist (nor be seen to insist) that any employee is disciplined.

- 13.6. Councillors have a right to be told the outcome of any disciplinary case but have no entitlement to detailed information about the hearing or its conduct.
- 13.7. If a councillor is not satisfied that action has been taken to deal with the complaint, it may be referred to the Chair of Council by the councillor concerned.
- 13.8. An officer who believes a councillor may have acted other than in accordance with this protocol should raise their concern with the Parish Clerk. They will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the Chair of the Council. More serious complaints may involve alleged breaches of the councillor's code of conduct.

14. COUNCILLOR ACCESS

- 14.1. Councillors or officers with questions about the implementation or interpretation of any part of this protocol should seek guidance from the Parish Clerk.