



BIGGLESWADE TOWN COUNCIL

COUNCILLOR-OFFICER PROTOCOL (Adopted by Council June 2016)

Introduction

This protocol supports and adds detail to both the Councillors' and Officers' Codes of Conduct. It is based on a model drawn up by the Association of Council Secretaries and Solicitors and tailored to suit this Council.

Councillors are democratically accountable and may often have political affiliations. Officers must serve the whole Council objectively. Together they should 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.

Principles

1. Councillors and officers must at all times observe this protocol.
2. The protocol has been approved by the Council and will be monitored, along with the Codes which it supports.
3. The protocol seeks to maintain and enhance the integrity of local government which demands the highest of personal conduct.
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.
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 employed and 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.
6. The Council has adopted codes of conduct for both Councillors and officers. Both represent best practice. The Councillors Code is based on The General Principles of Public Life (2013):
 - Selflessness - serving only the public interest
 - Integrity - avoiding placing themselves under any obligation to people or organisations and declare and resolve interests
 - Objectivity - taking decisions impartially and on merit
 - Accountability - to the public; being open to scrutiny
 - Openness - taking decisions in an open and transparent manner

- Honesty - to be truthful
 - Leadership - exhibit these principles in their own behaviour and be willing to challenge poor behaviour
7. These principles also underpin this protocol. They will also be reflected in a new national code of conduct for employees which has already been consulted on. Until such time as a new national code appears, officers are bound by the Council's own code of conduct for staff.
 8. A breach of this Protocol will not automatically also be a breach of the Councillors' Code but it may provide contributory evidence and may result in a complaint to the Monitoring Officer of Central Bedfordshire Council.
 9. Breaches by an officer may lead to disciplinary action.

The role of Councillors

10. Councillors have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Councillors may wish to seek the advice of senior colleagues, the Town Clerk and/or the Monitoring Officer.
11. Collectively, Councillors are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
12. 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.
13. Every elected-Councillor represents the interests of, and is an advocate for the Town and individual constituents. They represent the Council in the Town, respond to the concerns of constituents, meet with partner agencies, and sometimes serve on local bodies.
14. Some Councillors have roles relating to their position as members of committees and working groups of the Council.
15. Councillors who serve on committees may collectively have delegated responsibilities.
16. Some Councillors may be appointed to represent the Council on local, regional or national bodies.
17. As politicians, Councillors may express the values and aspirations of a party political group to which they belong, recognising that in their role as Councillors they have a duty always to act in the public interest.
18. Councillors are not authorised to instruct officers other than:
 - through the formal decision-making process;
 - to request items to go on to agendas in accordance with standing orders.
 - to request the provision of consumable resources provided by the Council for Councillors' use;

- where staff have been specifically allocated to give support to a Councillor or group of Councillors. In practice the Mayor will be consulted on the Agenda of full Council and offer guidance to the Clerk on behalf of the Council.
19. 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 or authorise electronic payments.
 20. Councillors must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Councillors have an obligation to have regard when reaching decisions, to any advice provided by officers.
 21. Councillors must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change their professional advice.
 22. 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.
 23. Under the code, a Councillor must not, when acting as a Councillor or in any other capacity:
 - bring the Council or his/her 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 position.

The role of the Officers

24. 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.
25. Under the direction and control of the Council, officers, led by the Town 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.
26. Officers have a duty to implement decisions of the Council, and 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 recorded in the minutes. Officers must convene Committee meetings at the request of Councillors of that committee in accordance with Standing Orders.
27. 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.
28. 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 authority as expressed in the Council's formal decisions.
29. 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.

- 30 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. In particular, there is a statutory limitation on officers' involvement in political activities.

The relationship between Councillors and officers: general

- 31 The conduct of Councillors and officers should be such as to instil mutual confidence and trust.
- 32 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.
- 33 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.
- 34 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.
- 35 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 the 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 Town Clerk, at least in the first instance.
- 36 Officers will do their best to give timely responses to Councillors' enquiries. However, officers should not have unreasonable requests placed on them.
- 37 Councillors will endeavour to give timely responses to enquiries from officers.
- 38 An officer shall not discuss with a Councillor personal matters concerning themselves or another individual employee. This does not prevent an officer raising, on a personal basis, and in their own time, a matter with a Councillor which he would otherwise do as a resident.
39. Councillors and officers should respect each other's free (i.e. non-Council) time.

The Council as an Employer

40. Officers are employed by the Council as a whole.

41. Councillors' roles are limited to:
- the appointment of specified posts,
 - determining human resources policies and conditions of employment.
 - undertaking the responsibilities of Personnel Committee
 - hearing and determining appeals.
42. If participating in the appointment of officers, Councillors should:
- remember that the sole criterion is merit
 - never canvass support for a particular candidate,
 - not take part where one of the candidates is a close friend or relative,
 - not be influenced by personal preferences, and
 - not favour a candidate by giving them information not available to the other candidates.
43. A Councillor should not sit on an appeal hearing if the appellant is a friend, a relative, or an officer with whom the Councillor has had a working relationship.

Chairman and officers

44. Officers will respect the position of Chairman and provide appropriate support.

Members of other committees and officers

45. The Clerk will offer to arrange informal meetings with the Mayor and, where appropriate, Committee chairmen, if required, prior to formal meetings.
46. The Town Clerk has the right to present reports and give advice to committees.
47. Councillors of a committee shall take decisions within the remit of that committee and will not otherwise instruct officers to act.
48. At some committee meetings, a resolution may be passed which authorises a named officer to take action between meetings in consultation with the chairman. In these circumstances it is the officer, not the chairman, who takes the action and is responsible for it. A chairman has no legal power to take decisions on behalf of a committee, neither should they apply inappropriate pressure on the officer.

Local Councillors and officers

49. To enable them to carry out their Town or ward role effectively, Councillors need to be fully informed about matters affecting it by the Town Clerk.
50. Whenever a public meeting is organised by the Council to consider a local issue, all the Councillors should be invited to attend the meeting as a matter of course.

- 51 If a local Councillor intends to arrange a public meeting on a matter concerning some aspect of the Council's work, they should inform the Town Clerk. As long as the meeting has not been arranged on a party political basis:
- An officer may attend but is not obliged to do so, and
 - the meeting may be held in Council-owned premises.
- 52 No such meetings should be arranged or held in the immediate run-up to Council elections.
- 53 Whilst support for Councillors' ward work is legitimate, staff should not be asked to accompany Councillors to ward surgeries.
- 54 In seeking to deal with constituents' queries or concerns, Councillors should not seek to jump the queue but should respect the Council's procedures.
55. Councillors must be clear about when they are acting as individuals and when they are representing the Council. Councillors may not commit the Council unless the commitment is Council policy or the subject of a specific resolution.

Councillors' access to documents and information

- 56 Councillors may request the Town 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:
- It is in the public domain, and
 - It is not barred by the Data Protection Act from being given.
- 57 Every Councillor of a committee has a right to inspect documents about the business of that committee.
- 58 A Councillor who is not a member of a specific committee, may have access to any document of that specific part of the Council provided:
- they can demonstrate a reasonable need to see the documents in order to carry out their role as a Councillor (the "need to know" principle), and
 - the documents do not contain "confidential" or "exempt" information as defined by the law.
- 59 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 Town Clerk but a Councillor may request a written justification for refusal.
- 60 A Councillor should obtain advice from the Town Clerk in circumstances where they wish to have access to documents or information:
- where to do so is likely to be in breach of the Data Protection Act, or
 - where the subject matter is one in which they have a disclosable pecuniary interest, as defined in the members' code of conduct.

- 61 Information given to a Councillor must only be used for the purpose for which it was requested.
- 62 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. Where the Council agree that information is confidential and it is not required to be in the public domain, a Councillor or officer should extend the courtesy to other Councillors by informing them that they are to release information, even if entitled to do so.
- 63 When asked to do so, officers will keep confidential from other Councillors, advice requested by a Councillor.
- 64 Councillors and officers must not prevent another person from gaining access to information to which that person is entitled by law.

Media relations

- 65 All formal relations with the media must be conducted in accordance with any Council agreed procedures and the law on local authority publicity.
- 66 Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.
- 67 Officers will keep relevant Councillors informed of media interest in the Council's activities, especially regarding strategic or contentious matters.
- 68 Before responding to enquiries from the media, officers will ensure they are authorised to do so.
- 69 If a Councillor is contacted by, or contacts, the media on an issue, they should:
 - indicate in what capacity they are speaking (e.g. as an individual Councillor, in a personal capacity, on behalf of the Council, or on behalf of a party group);
 - be sure of what they want to say or not to say;
 - if necessary, and always when they would like a press release to be issued, seek assistance from the Town Clerk, except in relation to a statement which is party political in nature;
 - consider the likely consequences for the Council of their statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions);
 - never give a commitment in relation to a matter which may be subject to claims from third parties and/or are likely to be an insurance matter;
 - consider whether to consult other relevant Councillors; and
 - 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.

Correspondence

- 70 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, i.e. there should be no “blind” copies.
- 71 Official letters written on behalf of the Council should normally be in the name of the Town Clerk.
- 72 The Mayor may initiate correspondence in their own name, but that should not usually be on behalf of the Council.
- 73 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.
- 74 When writing in an individual capacity as a Town member, a Councillor must make clear that fact.

Access to premises

- 75 Officers have the right to enter Council land and premises to carry out their work.
- 76 Councillors have a right of access to Council land and premises to fulfil their duties.

Use of Council resources

- 77 If the Council provides Councillors with services such as typing, printing and photocopying or goods such as stationery and computer equipment, to assist them in discharging their roles as members of the Council, these goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

Interpretation, complaints and allegations of breaches

- 78 Councillors or officers with questions about the implementation or interpretation of any part of this protocol should seek guidance from the Town Clerk or a Councillor colleague.
- 79 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,
 - never make a criticism in public, and
 - take up the concern with the officer or their manager privately.
- 80 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Councillor should raise the issue with the Town Clerk or as appropriate Personnel Committee or Council.