

Frome Town Council

Constitution

Chapter 7 - Staff and Cllrs Protocol

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Introduction

The purpose of this Protocol is to guide Councillors (Cllrs) and staff of the council in their relations with one another. The Protocol's intention is to build and maintain good working relationships between Cllrs and staff as they work together. Employees who are required to give advice to Cllrs are referred to as "staff" throughout.

A strong, constructive, and trusting relationship between Cllrs and staff is essential to the effective and efficient working of the Council.

This Protocol also seeks to reflect the principles underlying the Code of Conduct which applies to Cllrs and the employment terms and conditions of staff. The shared objective is to enhance and maintain the integrity (real and perceived) of local government.

The following extract from the Local Government Association guidance on the 2020 Model Councillor Code of Conduct states that:

"Both Cllrs and officers are servants of the public and are indispensable to one another. Together, they bring the critical skills, experience and knowledge required to manage an effective local authority.

At the heart of this relationship, is the importance of mutual respect. Cllr-officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Cllrs and officers should observe reasonable standards of courtesy, should show mutual appreciation of the importance of their respective roles and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

Cllrs provide a democratic mandate to the local authority and are responsible to the electorate whom they represent. They set their local authority's policy framework, ensure that services and policies are delivered and scrutinise local authority services.

[Cllrs of the executive,] Chairs and vice chairs of committees have additional responsibilities. These responsibilities will result in increased expectations and relationships with officers that are more complex. Such Cllrs must still respect the impartiality of officers and must not ask them to undertake work of a party-political nature or compromise their position with other Cllrs or other officers.

Officers provide the professional advice and managerial expertise and information needed for decision making by Cllrs and to deliver the policy framework agreed by Cllrs. They are responsible for implementing decisions of Cllrs and the day-to-day administration of the local authority.

The roles are very different but need to work in a complementary way.

It is important for both sides to respect these differences and ensure that they work in harmony. Getting that relationship right is an important skill. That is why the code requires Cllrs to respect an officer's impartiality and professional expertise. In turn officers should respect a Cllr's democratic mandate as the people accountable to the public for the work of the local authority. It is also important for a local authority to have a Cllr-officer protocol which

sets out how this relationship works and what both Cllrs and officers can expect in terms of mutual respect and good working relationships.”

This Protocol covers:

- The respective roles and responsibilities of the Cllrs and the member of staff.
- Relationships between Cllrs and staff.
- Where/who a Cllr or a member of staff should go to if they have concerns.
- Who is responsible for making decisions.

Background

This Protocol is intended to assist Cllrs and staff, 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 Cllrs and staff 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 Cllrs and staff is not recommended as it has the potential to damage this relationship.

Roles of Cllrs and Staff

The respective roles of Cllrs and staff can be summarised as follows:

- Cllrs and staff are servants of the public and they are indispensable to one another, but their responsibilities are distinct.
- Cllrs are responsible to the electorate and serve only for their term of office.
- Staff are responsible to the Council. Their job is to give advice to Cllrs and to the Council, and to carry out the Council's work under the direction and control of the Council and relevant committees.

Cllrs

Cllrs 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 Cllrs have the same rights and obligations in their relationship with staff, regardless of their status and should be treated equally.

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

In line with the Cllrs' Code of Conduct, a Cllr 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.

Staff can expect Cllrs:

- to give strategic leadership and direction and to seek to further their agreed policies and objectives with the understanding that Cllrs 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
- to work constructively in partnership with staff acknowledging their separate and distinct roles and responsibilities
- to understand and support the respective roles and responsibilities of staff and their associated workloads, pressures and reporting lines
- to treat them fairly and with respect, dignity and courtesy
- to act with integrity, to give support and to respect appropriate confidentiality
- to recognise that staff do not work under the instruction of individual Cllrs or groups
- not to subject them to bullying, intimidation, harassment, or put them under undue pressure.
- to treat all staff, partners (those external people with whom the Council works) 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.
- not to request staff to exercise discretion which involves acting outside the Council's policies and procedures
- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a Cllr without proper and lawful authority
- not to use their position or relationship with staff to advance their personal interest or those of others or to influence decisions improperly
- to comply at all times with the Cllrs' Code of Conduct, the law, and such other policies, procedures, protocols and conventions agreed by the Council.
- respect the impartiality of staff and do not undermine their role in carrying out their duties
- do not ask staff to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to a member of staff being criticised for operating in a party-political manner
- do not ask staff to exceed their authority where that authority is given

Chairs and Deputy-Chairs of Council and committees

Chairs and Deputy-Chairs 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 Cllrs do. However, they must still respect the impartiality of staff and must not ask them to undertake work or anything else which would prejudice their impartiality.

Staff

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

Staff are responsible for day-to-day managerial and operational decisions within the Council, including directing and overseeing the work of any more junior staff. Cllrs should avoid inappropriate involvement in such matters.

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

Staff must:

- implement decisions 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 decisions made, regardless of any different advice given to the Council or whether the decision differs from the staff member's view
- work in partnership with Cllrs in an impartial and professional manner
- treat Cllrs fairly and with respect, dignity and courtesy
- treat all Cllrs, 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 advise all parts of the Council. Staff must always act to the best of their abilities in the best interests 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 are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Cllrs, 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 Cllrs to help them in performing their various roles in line with the Council's training and development policy
- not seek to use their relationship with Cllrs to advance their personal interests or to influence decisions improperly
- to comply, at all times, with policies, or procedures approved by the Council

Staff have the right not to support Cllrs in any role other than that of Cllr, and not to engage in actions incompatible with this Protocol.

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

There are exceptional circumstances where a Cllr can fulfil the role of a staff member, for example where there is a vacancy. This can only be done if the Cllr 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 Cllr is acting as a Cllr and when acting as the member of staff.

The relationship: general

Cllrs and staff are indispensable to one another. However, their responsibilities are distinct. Cllrs are accountable to the public, whereas staff are accountable to the Council as a whole.

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

Individual Cllrs should not actively seek to undermine majority decisions of the corporate body, as this could then bring them into conflict with staff who have been charged with promoting and implementing the Council's collectively determined course of action.

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

A Cllr who is unhappy about the actions taken by, or conduct of, a staff member should:

- avoid personal attacks on, or abuse of, a staff member at all times
- ensure that any criticism is well founded and constructive
- ensure that any criticism is made in private to the Line Manager or Town Clerk

Neither should a member of staff raise with a Cllr matters relating to the conduct or capability of another Cllr or staff member or to the internal management of the Council in a manner that is incompatible with the objectives of this Protocol.

Expectations

All Cllrs can expect:

- A commitment from staff to the Council as a whole, and not to any individual Cllr, group of Cllrs or political group.
- A working partnership.
- Staff to understand and support respective roles, workloads and pressures.
- A timely response from staff to enquiries and complaints.
- Staff's professional and impartial 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.
- Staff to be aware of and sensitive to the public and political environment locally.
- Respect, courtesy, integrity and appropriate confidentiality from staff and other Cllrs.
- Training and development opportunities to help them carry out their role effectively.
- Not to have personal issues raised with them by staff outside the Council's agreed procedures.
- That staff will not use their contact with Cllrs to advance their personal interests or to influence decisions improperly.

Staff can expect from Cllrs:

- 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 Cllrs will not use their position or relationship with staff to advance their personal interests or those of others or to influence decisions improperly.
- That Cllrs will at all times comply with the council's adopted Code of Conduct.

Some general principles

Close personal relationships between Cllrs and staff 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 a particular Cllr or staff member is getting preferential treatment.

Special relationships with particular individuals are not recommended as it can create suspicion that an employee favours that Cllr above others.

The Town Clerk (also known as the Proper Officer) is the head of paid services and has a line-management responsibility to all other staff. Communications should be made directly with the Town Clerk, unless it is agreed by the Town Clerk that such communications may take place directly with other staff over a particular matter. Cllrs should not give instructions directly to staff without the express approval of the Town Clerk.

Cllrs' access to information and to Council documents

Cllrs are free to approach staff 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 member of staff.

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

The common law right of Cllrs 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 is reasonably necessary to enable the member properly to perform their duties as a 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 Cllr'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 member of staff.

In some circumstances (e.g. a committee member wishing to inspect documents relating to the functions of that committee) a Cllr's "need to know" will normally be presumed. In other circumstances (e.g. a Cllr wishing to inspect documents which contain personal information about third parties) a Cllr will normally be expected to justify the request in specific terms. Any Council information provided to a Cllr must only be used by the Cllr for the purpose for which it was provided i.e. in connection with the proper performance of the Cllr's duties as a member of the Council.

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

Press and media

Councils are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and customers.

Councils use publicity to keep the public informed and to encourage public participation. The Council needs to tell the public about the services it provides. Good effective publicity should aim to improve

public awareness of the council's activities. Publicity is a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential to ensure that decisions on publicity are properly made in accordance with the Code of Recommended Practice on Local Authority Publicity and the Council's Media Protocol.

The staff member may respond to press enquiries but should confine any comments to the facts of the subject matter and the professional aspects of the function concerned. On no account must a member of staff expressly or impliedly make any political opinion, comment or statement.

Any press release that may be necessary to clarify the council's position in relation to disputes, major planning developments, court issues or individuals' complaints should be approved by the member of staff.

The Chair (or Chair of a committee) may act as spokespersons for the Council in responding to the press and media and making public statements on behalf of the Council but should liaise with the member of staff on all forms of contact with the press and media. The Council may also appoint individual Cllrs as spokespeople where there is an area of particular expertise, but this should only be done with the agreement of the Council.

The Council must comply with the provisions of the Local Government Act 1986 ("the Act") regarding publicity. All media relations work will comply with the national Code of Practice for Local Government Publicity. The Code is statutory guidance, and the Council must have regard to it and follow its provisions when making any decision on publicity.

The LGA has produced useful guidance on the Publicity Code - <https://www.local.gov.uk/publications/short-guide-publicity-during-pre-election-period>

For more detailed information and guidance regarding the role of Cllrs in connection with the use of social media, reference should be made to the Council's Social Media Protocol where there is one in place.

If things go wrong

Procedure for staff:

From time to time the relationship between Cllrs and the staff (or other employees) may break down or become strained. Whilst it is always preferable to resolve matters informally, it is important that the Council adopts a formal grievance protocol or procedure.

The principal 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 Cllrs to deal with personnel matters that cannot be resolved by the Town Clerk.

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 Cllrs' Code of Conduct the matter must be referred to the principal Council's monitoring officer in the first instance

in line with the Localism Act 2011. The Council may however try to resolve any concerns raised informally before they become a formal written allegation.

Procedure for Cllrs:

If a Cllr is dissatisfied with the conduct, behaviour or performance of a member of staff, the matter should be reported to the Town Clerk who will try to resolve the matter informally. If the matter cannot be resolved informally, it may be necessary to invoke the Council's disciplinary procedure.