

Scarcliffe Parish Council

Member and Officer Protocol

“Every local authority should have its own written statement or protocol governing relations between members and officers.” (Third report of the Committee on Standards in Public Life - the Nolan Committee)

INTRODUCTION

This protocol supports and adds detail to both the Councillors’ and Members of Staff 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 have political affiliations. Council staff 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 staff Councillors 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

- 1.1 Councillors and members of staff must always observe this protocol.
- 1.2 The protocol has been approved by the Council and will be monitored along with the Codes which it supports.
- 1.3 The protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest of personal conduct.
- 1.4 Councillors and members of staff 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.
- 1.5 Whilst Councillors and members of staff 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. Members of staff 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.
- 1.6 The Council has adopted codes of conduct for both Councillors and members of staff. Both represent best practice. The Councillors’ Code follows the national code which in turn is based on the general principles governing Councillors’ conduct enshrined in law.

These principles underpin this protocol. Until such time as a national code appears, members of staff are bound by the Council’s own code of conduct for staff.

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THE ROLES OF COUNCILLORS

- 2.1 Councillors have several 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 Council Clerk and/or the District Council's Monitoring Officer.
- 2.2 Collectively, Councillors are the ultimate policymakers determining the core values of the Council and approving the authority's policy framework, strategic plans, and budget.
- 2.3 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.
- 2.4 Every elected member represents the interests of and is an advocate for his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
- 2.5 Some Councillors have roles relating to their position as Councillors of committees and sub-committees of the Council.
- 2.6 Councillors who serve on committees and sub-committees collectively have delegated responsibilities.
- 2.7 Some Councillors may be appointed to represent the Council on local, regional, or national bodies.
- 2.8 As politicians, 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.
- 2.9 Councillors are not authorised to instruct members of staff 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 a contract on behalf of the Council. Authorised signatories however may sign cheques.
- 2.10 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 members of staff.
- 2.11 Councillors must respect the impartiality of members of staff and do nothing to compromise it, e.g., by insisting that a staff member change his/her professional advice.
- 2.12 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.
- 2.13 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 his/her position as a Councillor improperly to gain an advantage or disadvantage for his/herself or any other position.

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THE ROLES OF MEMBERS OF STAFF

- 3.1 Members of staff are responsible for giving advice to Councillors to enable them to fulfil their roles. In doing so, members of staff will consider all available relevant factors.
- 3.2 Under the direction and control of the Council, members of staff, led by the Council 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.
- 3.3 Members of staff 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.
- 3.4 Members of staff 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.
- 3.5 Members of staff 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.
- 3.6 Members of staff 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.
- 3.7 Members of staff 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 the involvement of members of staff in political activities.

THE RELATIONSHIP BETWEEN COUNCILLORS AND MEMBERS OF STAFF: GENERAL

- 4.1 The conduct of Councillors and members of staff should be such as to instil mutual confidence and trust.
- 4.2 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.
- 4.3 Informal and collaborative two-way contact between Councillors and members of staff is encouraged. But personal familiarity can damage the relationship, as might a family or business connection.
- 4.4 It is not enough to avoid impropriety. Councillors and members of staff 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 staff member on a personal basis.
- 4.5 Members of staff serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.

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- 4.6 Members of staff work to the instructions of their senior members of staff, not individual Councillors. It follows that, whilst such members of staff will always seek to assist a member, 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 information, Councillors should normally direct their requests and concerns to the Council Clerk, at least in the first instance.
- 4.7 Members of staff will provide a holding response to emails within 48 hours of the receipt of the email and endeavour to provide a full response within five working days. However, Members of staff should not have unreasonable requests placed on them. Their work priorities are set and managed by the Council Clerk. Councillors should avoid disrupting members of staff' work by imposing their own priorities.
- 4.8 Councillors will provide a holding response to emails within 48 hours of the receipt of the email and endeavour to provide a full response within five working days.
- 4.9 A staff member shall not discuss personal matters with a member concerning him/herself or another individual employee. This does not prevent a staff member raising on a personal basis, and in his/her own time, a matter with his/her ward Councillor.
- 4.10 Councillors and members of staff should respect other's free (i.e. non-Council) time.

THE COUNCIL AS AN EMPLOYER

- 5.1 Members of staff are employed by the Council as a whole.
- 5.2 The HR Committee is responsible for:
 - a. recruitment
 - b. determining human resources policies and conditions of employment
 - c. hearing and determining appeals.
- 5.3 If participating in the appointment of members of staff, 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 him/her information not available to the other candidates

COUNCILLORS' ACCESS TO DOCUMENTS AND INFORMATION

- 6.1 Councillors may request the Council 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 not barred by the Data Protection Act from being given.
- 6.2 Every member of a committee or sub-committee has a right to inspect

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- documents about the business of that committee or sub-committee.
- 6.3 A member 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:
 - a. he/she can demonstrate a reasonable need to see the documents in order to carry out his/her roles as a member (the “need to know” principle), and
 - b. the documents do not contain “confidential” or “exempt” information as defined by the law.
 - 6.4 A member should obtain advice from the Council Clerk in circumstances where he/she wishes to have access to documents or information:
 - a. where to do so is likely to be in breach of the Data Protection Act, or
 - b. where the subject matter is one in which he/she has an interest as defined in the Councillors’ Code of Conduct.
 - 6.6 Information given to a member must only be used for the purpose for which it was requested.
 - 6.7 Councillors and members of staff 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.
 - 6.8 When requested to do so, members of staff will keep confidential from other Councillors advice requested by a member.
 - 6.9 Councillors and members of staff must not prevent another person from gaining access to information to which that person is entitled by law.

MEDIA RELATIONS

- 7.1 All formal relations with the media must be conducted in accordance with any Council agreed procedures and the law on local authority publicity.
- 7.2 Press releases or statements made by members of staff 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.
- 7.3 Members of staff will keep relevant Councillors informed of media interest in the Council’s activities, especially regarding strategic or contentious matters.
- 7.4 Before responding to enquiries from the media, members of staff will ensure they are authorised to do so.
- 7.5 If a member is contacted by, or contacts, the media on an issue, he/she should:
 - a. indicate in what capacity he/she is speaking (e.g. Councillor, in a personal capacity, on behalf of the Council, or on behalf of a party group)
 - b. be sure of what he/she wants to say or not to say.
 - c. if necessary, and always when he/she would like a press release to be issued, seek assistance from the Council Clerk, except in relation to a statement which is party political in nature.
 - d. consider the likely consequences for the Council of his/her statement (e.g. 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 he/she says in the run-up to local or national elections

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to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist.

CORRESPONDENCE

- 8.1 Correspondence between an individual member and a staff member should not be copied to another member unless the author expressly intends and states that this is the case or consents.
- 8.2 Official letters written on behalf of the Council should normally be in the name of the Clerk.
- 8.3 Letters which create legally enforceable obligations, or which give instructions on behalf of the Council should never be sent in the name of a member.
- 8.4 When writing in an individual capacity as a ward councillor, a member must make clear that fact.

ACCESS TO PREMISES

- 9.1 The privacy of our allotment holders and village hall user groups is important to us. Access to leased allotment land is allowed only by arrangement in advance with the relevant Allotment Association. Such access must be arranged through the Clerk.
- 9.2 Access to Palterton Village Hall is only allowed for Council - related meetings or by prior arrangement with the Clerk. Where access has been arranged care must be taken not to interrupt or disrupt the privacy of user groups.
- 9.3 During arranged visits to the Palterton Village Hall and Council Allotments Councillors and members of staff must comply with health and safety, security and other workplace rules and not interfere with activities taking place at the time of the visit.

INTERPRETATION, COMPLAINTS AND ALLEGATIONS OF BREACHES

- 10.1 Councillors or members of staff with questions about the implementation or interpretation of any part of this protocol should seek guidance of the Council Clerk.
- 10.2 A member who is unhappy about the actions taken by, or conduct of, a staff member should:
 - a. avoid personal attacks on, or abuse of, the staff member at all times.
 - b. ensure that any criticism is well founded, and constructive.
 - c. never make a criticism in public.
 - d. take up the concern with the staff member or his/her line manager privately.
- 10.3 If direct discussion with the staff member is inappropriate (e.g., because of the seriousness of the concern) or fails to resolve the matter, the member should raise the issue with the Council Clerk.
- 10.4 A serious breach of this protocol by a staff member may lead to an investigation under the Council's disciplinary procedure.

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10.5 A staff member who believes a councillor may have acted other than in accordance with this protocol should raise his concern with the Council Clerk. He will consider how the complaint or allegation should be dealt with. More serious complaints may involve alleged breaches of the Councillors' code of conduct.

Adopted

Signed (Chair)

Signed (Clerk)

Renewal Date

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